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U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS

WRITTEN COMMENTS

ON

PROPOSED IMPLEMENTATION OF THE HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM

PROPOSED IMPLEMENTATION OF THE CONVERSION OF THE TARIFF SCHEDULES OF THE UNITED STATES INTO THE NOMENCLATURE STRUCTURE OF THE HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM

JULY 12, 1988

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[For immediate release Oct. 26, 1987, No. 19, Committee on Ways and Means, U.S. House of Representatives]

HON. DAN ROSTENKOWSKI ANNOUNCES REQUEST FOR WRITTEN COMMENTS ON PROPOSED IMPLEMENTATION IN THE TRADE BILL OF THE CONVERSION OF THE TARIFF SCHEDULES OF THE UNITED STATES INTO THE HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM

The Honorable Dan Rostenkowski (D., Ill.), Chairman of the Committee on Ways and Means, U.S. House of Representatives, today announced that the Committee is requesting written testimony for the record from all interested parties on the proposed implementation of the conversion of the Tariff Schedules of the United States (TSUS) into the nomenclature structure of the Harmonized Commodity Description and Coding System (Harmonized System) as part of H.R. 3, the Trade and International Economic Policy Reform Act of 1987.

The Harmonized System is a new international standardized product nomenclature, developed under the auspices of the Customs Cooperation Council in Brussels, being proposed for worldwide use for the classification, description, and coding of articles in trade for customs tariff, statistical, and transport documentation purposes. The Harmonized System will be implemented by an international convention that obligates contracting parties to use the six-digit nomenclature as the basis for their national customs tariff and statistical nomenclatures for imports and exports.

The United States participated in the development of the Harmonized System in accordance with section 608(c) of the Trade Act of 1974. At the request of the President, the U.S. International Trade Commission has prepared a draft conversion of the TSUS into the nomenclature structure of the Harmonized System. The United States and other major trading countries have set January 1, 1988, as the target date for implementation of the Harmonized System, subject to Congressional approval. The Administration submitted to the Congress in June 1987 the draft legislation required for implementation of the U.S. Harmonized System tariff schedule.

In an effort to implement the Harmonized System by the target date of January 1, 1988, the conferees on H.R. 3, the omnibus trade bill, have tentatively agreed to expand the provisions in section 113 of the House bill and section 937 of the Senate amendment, both of which amend current law to allow for fast-track implementation of the Harmonized System after the trade bill is enacted, to provide for direct implementation of the Harmonized System as part of H.R. 3. Since the Committee has not had the opportunity to hold a public hearing on this important issue, the public is invited to comment on the broad implications of adopting the Harmonized System, as well as the implications and likely effects with respect to particular U.S. industries of adopting the proposed conversion, including the conversion of existing U.S. tariff concessions into the Harmonized System nomenclature. The Committee would also welcome comments on specific elements of the draft implementing leg-

islation. Copies of the draft legislation may be obtained by contacting Mr. Chris Marcich, Office of the U.S. Trade Representative, 600 Seventeenth Street, NW., Washington, DC 20506; telephone (202) 395–5097. These comments will help provide the basis for the conferees' decision as to whether, and in what form, implementing legislation should proceed and whether it should be included as part of H.R. 3. Comments previously received in response to Subcommittee on Trade press release #1 dated January 12, 1987, requesting written comments on proposed conversion of the Tariff Schedules of the United States into the Harmonized Commodity Description and Coding System, will also be taken into consideration.

Details for submission of written comments.—Persons submitting written comments should submit *six (6) copies* by the close of business, *Monday, November 9, 1987,* to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, DC 20515.

See formatting requirements below:

COMMITTEE ON WAYS AND MEANS FORMATTING REQUIREMENTS FOR PRINTING OF HEARING STATEMENTS, WRITTEN COMMENTS AND EXHIBITS

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.

4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and public during the course of a public hearing, may be submitted in other forms.

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COMMENTS ON BEHALF OF THE AIR TRANSPORT ASSOCIATION OF AMERICA
AND MEMBER AIRLINES ON THE
PROPOSED IMPLEMENTATION IN THE TRADE BILL OF THE
CONVERSION OF THE TARIFF SCHEDULES OF THE UNITED STATES
INTO THE HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM

BEFORE THE COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
NOVEMBER 9, 1987

The airline industry strongly supports the adoption of the Harmonized Commodity Description and Coding System (Harmonized System) in the United States on January 1, 1988. Modern civil aircraft are the products of international production lines and are purchased worldwide through international distribution systems. The maintenance of these aircraft by airlines which operate internationally requires continuous transport of aircraft parts across international boundaries. The global logistic support system of the aviation industry will be greatly facilitated upon the worldwide adoption of a common classification language by all participating countries - which is scheduled to occur on January 1, 1988.

Should the United States fail to adopt the Harmonized System simultaneously with most of its major trading partners, the benefits of that system would by seriously denigrated. We envision an international market in which a major participant would be the "odd country out" - a market in which all other industrialized traders would be speaking one language of merchandise classification while the United States continued to speak its own two languages, one for export and another for import. The resulting confusion and miscommunication would be particularly acute in the aviation industry, which depends on constant international movement of aircraft parts; adoption of the Harmonized System on January 1, 1988 is considered crucial to the uninterrupted conduct of airline business.

COMMENTS OF
AMDAHL CORPORATION

This submission is in response to the Committee's October 26, 1987 request for comments on proposed implementation of the conversion of the Tariff Schedule of the United States ("TSUS") into the nomenclature structure of the Harmonized Commodity Description and Coding System (the "Harmonized System") as part of H.R. 3, the Trade and International Economic Policy Reform Act of 1987.

This submission is on behalf of AMDAHL CORPORATION.

A. AMDAHL CORPORATION

AMDAHL CORPORATION was founded in 1970 in the Silicon Valley of California with the objective of designing, manufacturing, selling and servicing advanced technology large-scale mainframe computers. The Company has grown to revenues of over $1 billion annually and does business throughout the United States and abroad. AMDAHL is exclusively in the large-scale computer systems business, selling mainframe computers, large-scale direct access storage drives (disk drives), scientific computers and communications processors, and related software and services for these products. Approximately fifty-five percent (55%) of AMDAHL's revenues are derived from U.S. customers; forty-five percent (45%) come from sales overseas.

AMDAHL employs over 7,300 people throughout the world. It has approximately 5,500 direct stockholders, and many more indirect stockholders through their interest in pension funds and other institutional holdings. AMDAHL is one of the largest employers in Santa Clara County, California, the heart of Silicon Valley.

Since its inception, AMDAHL has emphasized research and development (R&D) activities and product innovation. The Company has consistently been among the leaders in R&D expenditures as a percentage of revenues.

B. PROPOSED HARMONIZED SYSTEM

The U.S. high technology industry has been working cooperatively with the Administration for some ten years on the development of the Harmonized System, with emphasis on those portions affecting computer parts and systems. The industry and the Administration concluded these joint efforts in October 1986, and the proposed Harmonized System was published by the office of the U.S. Trade Representative in July 1987. The U.S. high technology industry supports this consensus version of the Harmonized System.

The industry has recently learned of "technical amendments" to the Harmonized System which have been proposed and advanced by the Administration, and submitted to the Congress for its review and approval. AMDAHL joins the industry in opposition to the "technical amendments" for the following reasons.

(1) The Proposed "Technical Amendments" Contravene the Intent of Congress to Adopt Harmonized Tariff Nomenclature That Would Have a Neutral Effect on Duty Rates.

The Harmonized System was intended by Congress as a new international standardized product nomenclature, developed for worldwide use, for the classification, description and coding of articles in trade for tariff purposes. The United States participated in the development of the Harmonized System in accordance with Section 608(c) of the Trade Act of 1974. The U.S. International Trade Commission's draft which resulted from that participation merely converted the TSUS into the nomenclature structure of the Harmonized System. The proposed "technical amendments," however, are inconsistent with Congress' intent that the Harmonized System be a mere neutral conversion of the TSUS into an internationally accepted nomenclature. Instead, the amendments could impose significantly higher tariff rates on certain imported computer components and systems.

(2) The Proposed "Technical Amendments" Have Been Submitted with Insufficient Notice for the U.S. High Technology Industry to Conduct a Full Evaluation of their Impact.

As mentioned, the U.S. high technology industry and the Administration labored for years to ensure that the conversion of the TSUS to the international nomenclature would be rational, coherent and neutral. The proposed "technical amendments" have been submitted without benefit of industry review, comment and input. In fact, administration officials first notified the industry of the possibility of amending the Harmonized System draft on October 5, 1987. The actual language now presented to the trade bill conferees was not discussed with the industry until last week, on October 31, 1987.

This "eleventh hour" effort to alter the computer-related portions of the Harmonized System represents a marked departure from the cooperative and constructive effort that the industry has come to expect. Irrespective of the substance of the proposed

changes, the U.S. high technology industry, comprised of hundreds of companies across the country, cannot usefully evaluate and comment on the proposals in the short time remaining before the Harmonized System is to be adopted by the conference.

(3) The Proposed "Technical Amendments" to the Harmonized System Would Deny the U.S. High Technology Industry the Benefits Intended by the Congress When It Passed the Trade and Tariff Act of 1984.

The Trade and Tariff Act of 1984 included, as a principal negotiating objective relating to high technology products, the reduction or elimination of tariffs on United States exports of high technology products and related services. To accomplish this objective, Section 308 of the Act authorized the President to negotiate the elimination of duties on certain imported high technology products, including "parts of automatic data processing machines." The inclusion of computer parts in this provision was the result of significant congressional investigation and deliberation, taking into account the views of the Administration and the industry. The President concluded agreements with Japan and Canada on November 22, 1985 that resulted in the elimination of U.S. duties on imported computer parts in return for reciprocal concessions granted by Japan and Canada with respect to U.S. exports.

In its current form, the Harmonized System preserves the benefits to the U.S. high technology industry intended by the Act. The current draft of the Harmonized System further comports with the negotiated understandings on duty rates reached with Japan and Canada. The proposed "technical amendments," however, appear intended to narrow the scope of the duty-free "parts" provisions, eroding both the benefits to the U.S. high technology industry intended by the Act and the integrity of the agreements concluded with Japan and Canada.

(4) The Proposed "Technical Amendments" to the Harmonized System Would Undermine the Competitiveness of the U.S. High Technology Industry.

In 1986, exports by the U.S. high technology industry exceeded imports by over $2.1 billion. AMDAHL contributed to this trade surplus by designing, manufacturing and exporting a large number of sophisticated, large-scale computer systems to foreign buyers. As indicated above, more than forty-five percent (45%) of AMDAHL's sales are in the foreign market.

AMDAHL's competitiveness in the foreign marketplace is largely based on its R&D expenditures. As a result of its commitment to R&D (nearly all of which is done in the U.S.), AMDAHL has been responsible for many major innovations in large-scale computers, and remains on the leading edge of technology for these systems. Among the innovations in large-scale computers for which Amdahl has been responsible are:

(1) the use of ECL semiconductor technology in large-scale computers;

(2) air-cooling for large-scale computers;

(3) in-board channels;

(4) processors that are upgradeable in processing power on customer sites;

(5) large memory processors; and

(6) highly efficient multiple operating system environment.

As with most of the major U.S. high technology firms, AMDAHL must rely on the most advanced components in order to maintain its competitiveness. In a number of instances, the Company uses certain imported components and exports other AMDAHL-produced components that are used in data processing systems manufactured abroad.

Should the proposed "technical amendments" to the Harmonized System be adopted, the costs to AMDAHL of many significant foreign-produced components would increase. These increased costs would necessarily drain resources from AMDAHL's R&D effort with the result, potentially,

of reducing the technological advantage AMDAHL products currently enjoy in the international marketplace.

Finally, the proposed "technical amendments" would invite retaliatory duties on U.S. high technology exports. AMDAHL's competitive position in foreign markets would be undermined, as would the trade surplus which the overall U.S. high technology industry has traditionally generated.

C. AMDAHL'S POSITION

AMDAHL strongly opposes consideration by the Committee of the proposed "technical amendments" to the Harmonized System, and reemphasizes its support for the "final" version of the Harmonized System agreed to in October 1986.

STATEMENT

of the

AMERICAN ASSOCIATION of EXPORTERS and IMPORTERS

Submitted by Eugene J. Milosh
President,
American Association
of Exporters and Importers

The American Association of Exporters and Importers is a national organization of approximately 1200 member firms engaged in exporting and importing. AAEI members include manufacturing firms and firms in service industries supporting international trade such as banks, transportation companies, freight fowarders, customs brokers, consultants and attorneys. AAEI members are involved in every facet of international trade. All will be affected by the implementation of the Harmonized Commodity Description and Coding System (H.S.), some dramatically.

AAEI has long been involved with the development of the H.S. Ten years ago, we appeared before the House Ways and Means Subcommittee on Trade to ask for congressional support to develop what has become the H.S. Since that time, the Association and its constitutent groups, the Textile and Apparel, Chemical and Footwear Groups, have testified before and met with the agencies involved in developing the U.S. version of the H.S. AAEI has supported the concept of a uniform commodity coding system (the H.S.) since its inception.

AAEI believes the following issues must be addressed in order to provide a complete perspective on the H.S.:

1. Is the H.S. desirable in principle and concept?

2. Is the language of the proposed legislation adequate to guide the Governments and the Courts?

3. Is the schedule for implementation realistic?

I. The H.S. is desirable.

There are two aspects of the H.S. which make it compellingly attractive. First, it is simple to use; second it is an international system. As to simplicity, the H.S. is modern and well organized. It replaces with logic and order principles of classification which have become cumbersome and confusing since first enacted in 1789. It is time to say good-bye to arcane and antiquated concepts such as relative specificity, chief value, and others. On the second aspect, we will at last be assured that in trade negotiations and dispute settlements we and our trade partners are talking about the same merchandise. Trade statistics, the data base which informs these proceedings, will be vastly improved. These results are important in principle, and the H.S. excellently implements them.

II. Guidelines to Congressional intent.

The H.S. is supported by extensive interpretive materials in the form of Explantory Notes. Neither the implementing legislation nor the Administrative statement explaining the draft bill refers to the Explanatory Notes. This is unfortunate. The Explantory Notes represent the concensus position of the draftees of the H.S. after review by members of the Customs Cooperation Council. The Notes are therefore, the agreed explanation of how the H.S. is to be read. It would be most useful if the Congress would give its support to the utilization of the Explanatory Notes as the primary guide to interpretation of the H.S. unless clearly contrary to a statute of the United States.

Without a reference to the Explanatory Notes the proposed legislation is defective. No guidance is given to Customs and no intent is expressed to the courts. As a result, we must expect uncertainty, delay, and unnecessary litigation. This is in the interest of no one.

The proposed legislation amplified by the Administrative Statement, vests in the President's authority to accept or reject recommendations from the CCC to up-date the H.S. This is as it should be. But the emphasis in the statute is wrong. It requires that the President find that the amendment is in the national economic interest. We believe this emphasis should be reversed. The President should accept the recommendation unless he finds it is against the national economic interest. The H.S. should not be a vehicle for tariff and trade adjustment. It should be as neutral in application and universal in meaning as is possible; and the presumption should be in favor of the implementation by the United States of updating and clarification recommended by the international instrumentality charged with maintenance of the System. It should be remembered that such a pattern will in no way inhibit the right of the United States to maintain given rate of duty.

III. Immediate action is required to ensure enactment on January 1, 1988.

The Association believes that adoption of an international system for classification of goods is of great importance. The President's negotiating authority, due to expire on January 3, 1988 should be extended to ensure quick, amendment free passage of the H.S. We urge this Committee to provide authority to the President for implementing the System. However, this negotiating authority must not come at the expense of the trade community, and the Congress should know beforehand the cost to the national economy which will result.

AAEI believes that the U.S. should implement the H.S. on January 1, 1988 and toward that end, that the H.S. implementing legislation should be introduced immediately and proceed on fast track procedure through Congress as legislation separate from the current Omnibus Trade Bill. AAEI endorses the proposed attachments of the H.S. legislation to the Budget Reconciliation Bill currently before Congress.

AAEI is concerned, however that a January 1, 1988 implementation date without adequate lead time to adjust to the new classification system, will cause major problems for the trade community and the U.S. Customs Service. AAEI urges that the implementing legislation direct that the appropriate agencies, principally the Department of Commerce and the U.S. Customs Service, ensure an orderly transition period, including release of necessary information without delay, from the TSUS to the HS to prevent disruption of trade. AAEI also urges that the implementing legislation include authorization for the use of 1987 visas for quota goods exported under proper licenses and entered into U.S. Customs territory in 1988.

In addition, AAEI's Textile and Apparel Group (AAEI-TAG) have some specific concerns regarding implementation. These concerns are extensively detailed in the separate submission by AAEI-TAG.

Failure to implement the HS will have a great impact on the ability for importers to conduct their businesses in 1988. AAEI thanks the Committee for the opportunity to express its view on these issues of vital importance to the entire trade community. We urge you to take whatever steps are needed to ensure that implementation of the Harmonized System on January 1, 1988 will facilitate trade, not hinder it.

AMERICAN ASSOCIATION OF EXPORTERS AND IMPORTERS
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TEXTILE & APPAREL GROUP

Comments of A.A.E.I.-T.A.G. on
Harmonized System Implementation
to Ways and Means Committee

This statement is being submitted by the Textile and Apparel Group of the American Association of Exporters and Importers (AAEI-TAG) in response to the Ways and Means Committee Press Release No. 19 of October 26, 1987, requesting comments on the proposed implementation of the Harmonized System.

AAEI-TAG previously submitted a statement with regard to the Harmonized System in response to the Subcommittee on Trade Press Release No. 1, dated January 12, 1987, requesting comments on the Harmonized System. That statement set forth AAEI-TAG's position that significant problems existed in the apparel chapters, Chapter 61 and Chapter 62 of the Draft Conversion of October, 1986. Among those problems were high duty rates on a wide range of apparel items resulting from the merger of non-ornamented and ornamented apparel classifications; the migration into high-duty classifications of cotton apparel containing silk, linen, and ramie and wool/synthetic blends due to the shift from chief value to chief weight as the basis for classification; and the higher duty-rates on certain outerwear resulting from the change in definition of coated fabrics under the Harmonized System.

The Proposed U.S. Tariff Schedule in the Harmonized System Nomenclature of June, 1987, attempts to address these problems. Duty rates assigned to classifications resulting from the merger of non-ornamented and ornamented classifications in the TSUS more closely relate to the weighted average of trade in these categories and are therefore more consistent with the principle of rate neutrality. The rate increases resulting from the changeover from chief value to chief weight as a basis for classification have been rectified in many cases by additional breakouts for these products at the appropriate lower duty rates. New breakouts have also been created for certain water-resistant outerwear reducing the duty rate on those products to those under the current system. These modifications have not fully corrected the rate increases resulting under the Harmonized System, and, as a result, duty rates on the apparel chapters overall are still slightly above those under the current system. However, we believe the elimination of ornamentation and chief value as classification concepts under the Harmonized System are major improvements from the current system, and, on balance, that adoption of the Harmonized System would be beneficial.

Although the substantive problems found in earlier drafts of the Harmonized System have been substantially eliminated, AAEI-TAG remains extremely concerned about the timing of implementation.

Throughout the development process of the Harmonized System Tariff Schedules, AAEI-TAG expressed its concern for an orderly transition from the current system. Such a transition is essential not only because of significant duty rates on individual products, but also because of significant changes in textile category classification under the Harmonized System which have been proposed both to bring such classification in line with the Harmonized System and for reasons particular to the category system itself (see p.4 infra).

As such, AAEI-TAG is extremely concerned that with less than two months remaining until the January 1, 1988, scheduled implementation date of the Harmonized System, implementing legislation has not been enacted and the actual timing of implementation remains uncertain. Customs has indicated it needs sufficient lead time in order to program its computer systems, and establish programs and procedures for January 1 implementation. Without this planning, the operational consequences will be disastrous. Quota administration without adequate programming could result in massive trade disruption. An example of what can go wrong was well documented last spring when one small computer error involving Category 335 cotton jackets from China caused severe disruption for Customs, importers, and foreign suppliers.

Inadequate lead time is particularly onerous to textile and apparel importers, retailers, and brokers. Currently, there is a great deal of confusion in these industries. Lead times between importer and retailer decisions and actual importation of merchandise is typically nine months or longer. Apparel importers and retailers are well into ordering merchandise for delivery in 1988. However, the correct duty rates on much of this merchandise is unknown, as it is unclear whether the existing TSUSA duty-rate structure will remain in effect as of January 1, 1988, or whether the Harmonized System duty-rate structure will be implemented on that date. Although overall, average duty rates under the Harmonized System are only slightly above the TSUSA rates, the rate differential on individual products are substantial in many instances.

For this reason, the precise date of Harmonized System implementation is extremely important from a duty-rate perspective.

Of equal importance is the effect of Harmonized System implementation on textile quota categories. In conjunction with the adoption of the Harmonized System, the Committee for Implementation of Textile Agreements (CITA) has developed a new textile category system with category changes for numerous products, including suits, infants' wear, all boys' apparel sizes 2 through 6X, and many fabrics. CITA has announced that it intends to implement the new category system on January 1, 1988, irrespective of whether the Harmonized System is implemented on that date.

The implementation of this new textile category system without concurrent implementation of the Harmonized System tariff schedules will be highly disruptive to apparel importers and retailers.

Tariff breakouts do not exist under the current TSUSA to allow for the whole adoption of the new textile category system. As a result, CITA has informed us that effective January 1, 1988, it intends to establish an interim system which will differ from the current category system and from the eventual new system. It will differ from the eventual new system by making exceptions for those categories as to which no TSUSA breakouts exist. These include: suits in Categories 443, 444, 643, 644, 843, and 844; fabric, Category 611; and infants' wear size 0-24 months in all apparel categories except infants' sets in Categories 359 and 659.

As of this date, no Federal Register notice has been published announcing the Government's intention to establish an interim system and fully describing it. The last Federal Register notice regarding the new textile category system and the Harmonized System, published in March of last year, stated that the Government intended to implement the new textile category system "with the scheduled advent of the Harmonized System on January 1, 1988." Thus, many apparel importers and retailers have no knowledge that an interim system distinct from the new textile category system may be implemented on January 1, 1988.

In addition, while the Department of Commerce has published a statistical correlation between the new 10 digit Harmonized System Tariff Schedule and the new category system, there is still no correlation between the TSUSA and the new category system. As such, with less than two months remaining before the Government intends to introduce this interim system, importers and retailers do not have information necessary to determine the appropriate classification of their merchandise.

The implementation of a new category system prior to the adoption of the Harmonized System itself would also raise serious problems internationally. U.S. bilateral textile agreements are based upon the existing textile category system. As such, the United States has entered into consultations with U.S. trading partners on the new textile category system. No bilateral trading partner has yet agreed to implementation of an "interim" textile/category system without adoption of the Harmonized System. We have been advised that if the Government is not able to reach agreement with its textile trading partners, it will unilaterally implement the system under Harmonized System consultation provisions contained in a number of bilateral agreements and under Paragraph 18 of the July 1986 Protocol of Extension. However, modification of the textile category system under the Harmonized System consultation provisions of bilateral agreements is contingent upon adoption of the Harmonized System, and serious questions exist whether Paragraph 18 provides unilateral authority for the United States to undertake modifications, particularly if the United States has not adopted the Harmonized System. We fear implementation of an interim textile category system prior to implementation of the Harmonized System would therefore lead to international disputes over the textile category classification of imports and result in a totally chaotic situation.

We have discussed the possibility of implementation of the new category system concurrently with the implementation of the Harmonized System at a later date in 1988, if January 1

implementation of the Harmonized System is impossible. However, we have been advised that a mid-year implementation of the textile category system would result in a two to three week paralysis of trade, as Customs would be forced to shut down operations to change over from one system to another, and that mid-year implementation also would raise problems in determining the proper amounts to be charged against quotas. However, the adoption of an interim system would not resolve this problem. Instead, it would exacerbate the problem by requiring two changeovers: first, from the current system to an interim system on January 1, 1988; and, second, changing over from the interim system to the new textile category system at a later date.

Under the circumstances, it is essential that immediate action be taken to implement the Harmonized System on January 1, 1988. If implementation on January 1, 1988, is not possible through enactment of Omnibus trade legislation, the Harmonized System implementing legislation should be enacted separately. However, if implementing legislation cannot be enacted for January 1, 1988, both the implementation of the Harmonized System and the change to a new category system should be deferred until January 1, 1989, to allow for an orderly transition of both the Harmonized System itself and the textile category system.

AAPA
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November 18, 1987

The Honorable Dan Rostenkowski
Chairman, Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

The American Association of Port Authorities (AAPA), representing virtually all public port authorities in the United States, urges you to press for the full implementation of the Harmonized System (HS) by January 1, 1988. Although your efforts on both the Committee and conference levels have been central to the progress of this legislation, it appears possible that H.R. 3 will not become law in time for an orderly transition to HS. In order to avoid a potential crisis in the processing of international trade documentation, AAPA requests you to create freestanding legislation to authorize implementation of the Harmonized System.

As you know, the public port industry, as well as the international trade community that it serves, has fully endorsed this new, truly international language which will greatly facilitate trade. All elements of that community are, in fact, well underway in preparation for the transition to the Harmonized System through extensive education and training programs, and investment in computer hardware and software to support the new system.

However, given the current uncertainty about when the United States will implement the HS, the port industry cannot complete our preparations. Further delay is likely to engender major problems, including obstructed trade flows and tremendous confusion between the public port industry, the trade community, U.S. trading partners, and the U.S. Customs Service, when implementation eventually does occur. Your leadership is desperately needed to avoid exacerbating an already complex implementation problem.

Many factors have brought us to this present predicament. Our concern at this point is only the predictable and uninterrupted flow of goods through our facilities by our customers. This can best be accomplished through legislation authorizing the United States to implement the Harmonized System by January 1. Your support for this result is urgently needed.

Sincerely,

Erik Stromberg

Erik Stromberg
President

American Electronics Association AEA

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November 10, 1987

The Honorable Dan Rostenkowski
Chairman, Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Bldg.
Washington, D.C. 20515

Dear Mr. Chairman:

The American Electronics Association, representing some 3,500 manufacturers of high technology products, is pleased to respond to the request of your committee for comments on the proposed conversion of the Tariff Schedules of the U.S. into the nomenclature structure of the Harmonized System (H.S.).

AEA strongly supports implementation by Congress of the H.S. version submitted by the Administration in July 1987. We believe that implementation of this version simultaneous with the major partners of the U.S., will simplify to some extent what is currently a complicated import-export environment for members of the electronics industry. Many AEA member companies have invested considerable time and money preparing for this conversion.

AEA also believes that the July H.S. version, consistent with the Administration's stated objective, is revenue neutral for electronics. As such, it retains the level of duties at which electronics companies have established business relationships world-wide. AEA has supported this principle vigorously in the interest of achieving a smooth transition into the new H.S. environment.

In this regard, AEA is very concerned about recent efforts by the Administration to amend the July H.S. version by removing duty free treatment of certain computer parts. Although the Administration has represented this amendment as technical in nature, we believe that it would remove a substantive duty free benefit to the electronics industry authorized by the Congress in the Trade Act of 1984. A more detailed analysis of this amendment is contained in the attached position paper.

AEA is opposed to this substantive change to the July H.S. implementing language. If this or other substantive changes to the July version are contemplated, AEA would reconsider its strong support for implementation of the Harmonized System.

In summary, AEA urges the adoption of the July H.S. version without substantive changes. Implementation of the Harmonized System on schedule in January 1988, will be of substantial benefit to American industry in general, and the U.S. electronics industry in particular. If the January 1st date is not met, AEA would urge that Congress authorize U.S. implementation at the earliest opportunity.

Thank you for the opportunity to comment on this important matter.

Sincerely,

Brian P. Wynne

Brian P. Wynne
Manager, International Trade Affairs

Attachment

AEA Position on Proposed Changes to the Treatment of Certain Computer Parts in the Harmonized System

AEA opposes the Administration's proposed amendment of the July version of the H.S. as relates to the treatment of certain computer peripherals. The language in Harmonized System is the result of a long process that began when representatives of high technology industries sought to reach an agreement with Japan and Canada, that would provide for duty-free treatment for computer parts entering the United States, while at the same time allowing parts, peripherals and finished systems from the United States to enter those countries duty free. The Trade and Tariff Act of 1984 provided the President with negotiating authority to reach such an agreement. An agreement was reached on November 22, 1985. This agreement was implemented on January 17, 1986.

Shortly after the agreement was reached, the proposed Harmonized System was modified to reflect the scope of the duty-free treatment provided for under the agreements. It is this draft of the Harmonized System that is currently before Congress.

The Harmonized System implements the agreement by classifying the microprocessor, when imported without other components, as a part of a digital monolithic integrated circuit under 8542.11, free of duty. The motherboard, containing the microprocessor, when imported without other components, is classified as a part of a digital automatic data processing machine under 8473.30.40, free of duty. Under the Harmonized System peripheral units of equipment, e.g., displays, keyboards, printers, disk drives, other storage units, etc., that do not have a "base for fixing or placing them on a table, desk, wall, floor or similar place..." are classified under a free rate of duty under either 8471.92.40, 8471.93.40 or 8471.99.40. The same peripherals having a "base" are classified at a 3.7 percent rate of duty under either 8471.92.80, 8471.93.80 or 8471.99.80. Parts of the foregoing are also duty-free under 8473.30.40.

On July 2, 1987 the Customs Service issued a ruling that reclassified importations of stuffed printed circuit boards, incorporating central processing units from the duty-free parts provision to a dutiable provision as unfinished computers. In the same ruling, Customs applied the same logic to unfinished peripherals. That is, peripherals without bases are now classified in a dutiable provision. The effect of this decision is to negate much of the benefit the industry gained in the Computer Parts Agreement.

Now following Customs' lead, the Administration is proposing "technical" amendments that would codify the Customs decision in the Harmonized System. These amendments will do away with base/no-base distinction on which the industry has relied since the implementation of the agreement.

Customs apparently wants to drop the base/no-base distinction in the Harmonized System because it believes that it does not currently reflect Customs policy with regard to classifying computer parts. However, we have found a long line of Customs Letter Rulings that when read together make clear that the base/no-base distinction was the governing criteria for computer parts.

First of all the base/no-base distinction appears in the current tariff schedule in headnote 2(a) of Schedule 6, Part 4, Subpart G. It states:

> 2. For the purposes of this subpart --
> (a) the term "office machines" refers to machines which are used in offices, shops, factories, workshops, schools, depots, hotels, and elsewhere, for doing work concerning the writing, recording, sorting, filing, mailing of correspondence, records, accounts, forms, etc., or for doing other "office work", and which have a base for fixing or placing them on a table, desk, wall, floor, or similar place....(Emphasis added)

Using this language, Customs classifies all computer peripherals with bases under the dutiable office machines provision. Prior to the July ruling, those peripherals without bases were classified as parts. Customs now argues that following General Interpretative Headnote 10(h), unfinished peripherals should be classified as the finished machines and that the base/no-base distinction never formally existed.

Contrary to this assertion, the prior practice is demonstrated by a number of Customs rulings.

In ruling 073402 (Mar. 30, 1984), after quoting Headnote 2(a) of Schedule 6, Part 4, Subpart b of the TSUS, Customs stated:

> Since disk drives play such an integral role as computer peripheral device in allowing a computer system to access data, they are also commonly recognized as "office machines" if they have the requisite "base."
>
> It is our determination that the disk drives here are used with a computer system and appear to have the requisite base for tariff purposes. Thus, we find that these disk drives would be classifiable under the provision for office machines not specially provided for, in item 676.30, TSUS.

Similarly, in ruling 072850 (Mar. 30, 1984) Customs stated "[c]omplete floppy disk drives are classifiable under 676.30, ... (TSUS), as they conform to the definition of office machines contained in Subpart G2(a) of Schedule 6, Part 4...." Id. Ruling 071366 (Sept. 8, 1983) uses the same logic to classify free-standing keyboards and a magnetic card reader/writer.

In discussing the classification of a printer, the New York office stated:

"This printer is designed to fit into various office related equipment, lacks a base, and thus is not considered to be a free-standing peripheral office machine." Customs Ltr. Rul. 803858 (Sept. 14, 1982) (emphasis added).

It is clear from these rulings that Customs considered the existence of a base controlling as to whether it was classified in item 676.30 or item 676.15. No reference was made to the finished-unfinished doctrine of General Interpretative Headnote 10 (h).

Customs Letter Rulings 071481 (July 10, 1984), 073430 (Dec. 6, 1983), 806649 (July 23, 1983), 067572 (June 22, 1982), 801396 (Sept. 30, 1981), 800881 (July 16, 1981), 800807 (June 16, 1981), 054409 (April 3, 1978), 025788 (July 31, 1978) and 0040922 (April 26, 1976) do not draw a specific distinction between items with or without a base. They do, however, indicate that "free standing", "peripheral", "independent units", etc. are classified as office machines and that items that do not have a separate housing are classified as parts under item 676.52 Therefore, while the letters are not specific, one can fairly infer that the only distinction drawn by Customs was whether the item in question had a base or housing. In no case was there a discussion of whether an item without a base could be considered an unfinished office machine. In this regard ruling 800807 describes a keyboard that appears complete except for the base.

That board was classified as a part with no mention of headnote 10(h).

The only rulings that we could find that discuss the finished-unfinished doctrine in the context of computer peripherals are 072720 (June 6, 1984) and 068986 (Nov. 5, 1981). Both of thee rulings refused to apply that doctrine to disk drives. In 068986 the disk drive in question could be encased in its own housing or installed in the computer housing. Because the disk drives could be used in both, and the importer could not prove chief use as office machines, Customs held that the drives were classified as parts. The ruling stated that because the chief use could not be applied. At the time of the ruling, before the computer parts agreement, the parts provision carried a higher rate of duty than the office machine provision and the burden was placed on the importer to prove entitlement to the lower rate. Ruling 072720 applies the same logic to reach the same conclusion.

While the logic of the foregoing Customs rulings is not always clearly stated, the results are consistent. Articles with bases are classified as office machines and those without bases are classified as parts. Therefore, the language in the Harmonized System that adopts the base/no-base distinction is consistent with prior Customs practice as indicated by the agency's own letter rulings.

Therefore, AEA opposes this amendment which is substantive, rather than technical in nature. It would remove a benefit gained by the industry from computer parts tariff elimination. This benefit, which Congress granted in the Trade Act of 1984, is integral to the health of U.S. high technology industries.

Comments of the

AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION

to the

COMMITTEE ON WAYS & MEANS

U.S. HOUSE OF REPRESENTATIVES

on

Newsprint Definition in the
Nomenclature Structure of the Harmonized System

November 6, 1987

The American Newspaper Publishers Association (ANPA) is a non-profit trade association, representing nearly 1,400 member newspapers. ANPA members account for about 90 percent of U.S. daily and Sunday newspaper circulation and about 85 percent of Canadian circulation. Many non-daily newspapers also are members.

ANPA has long been concerned with the definition of "newsprint" in the Harmonized System nomenclature. The definition is as follows:

> uncoated paper of a kind used for the printing of newspapers, of which not less than 65 percent by weight of the total fiber content consists of wood fibers obtained by a mechanical process, unsized or very lightly sized, having a smoothness on each side not exceeding 200 seconds Bekk, weighing not less than 40 grams per square meter and not more than 57 grams per square meter and having an ash content by weight not exceeding 8 percent.

The U.S. Customs Bureau has been using a long-standing test for determining whether paper is classifiable as standard newsprint paper. That test is whether the paper is of that class or kind chiefly used in the U.S. in the printing of newspapers. The bureau lists descriptive specifications which it believes most newsprint conforms to and thus meet the test. As newsprint and printing technologies change, the descriptive specifications can be adjusted administratively so long as chief use prevails.

The newsprint definition adopted by the Customs Cooperation Council when it prepared the Harmonized System nomenclature throws up an intergovernmental roadblock to smooth transitions as newsprint and printing technologies evolve. In fact, the CCC definition already is out of date.

First, it requires a minimum percentage of woodpulp. But newsprint can be made from fiber sources other than wood. Research by ANPA, U.S. Agriculture Department, UNESCO, Food and Agriculture Organization, and a myriad of academic and commercial research efforts worldwide has proved that good quality newsprint can be made from a variety of plants other than trees. ANPA's research has centered on the use of the herbaceous plant "kenaf." Other research has used "bagasse" (which is sugar cane after the sugar has been refined from it) as well as rice and other non-wood materials.

A private investment company currently is making a feasibility study and gathering finances to build a kenaf processing plant in southeast Texas. If all goes well, the mill could be operational in the early 1990's. Whether this plant would produce newsprint or other products is a decision the company has yet to make, but the technology exists for making newsprint from kenaf, or from a mixture of wood and kenaf in which wood fibers could be substantially less than 65 percent.

The CCC definition with the 65 percent wood fiber requirement could inhibit development of promising alternatives to wood in the manufacture of paper products.

Second, ANPA has objected to the smoothness test in the CCC definition. The test is unnecessary and apparently unreliable. Further, it would exclude a large portion of newsprint currently produced in Canada and used by U.S. publishers which the U.S. historically has included in the definition of standard newsprint.

There is no sound reason for government to include a smoothness test in the definition for newsprint. Publishers themselves monitor the quality of the newsprint they buy. The smoothness test simply imposes an unnecessary bureaucratic hurdle to efficient transportation of newsprint between countries.

ANPA is not satisfied that the Bekk test is reliable. Our understanding is that machines for testing smoothness using this test are manufactured by a single European company; that an insufficient number of these machines have been built to meet the need for making these measurements worldwide; and that repeated testing of the same newsprint by the same machine has produced widely varying measurements. We admit we have not ourselves conducted research on the Bekk method, but reports reaching our member newspapers from other countries have included the above concerns.

In addition, we estimate that some 800,000 to 1 million tons of newsprint imported by U.S. publishers from Canada would exceed the 200-seconds-Bekk standard, with much of it reaching as high as 250 seconds. This test is unimportant to U.S. publishers. The test is not used to measure smoothness of U.S. manufactured newsprint. Nonetheless, imposition of this world definition could create additional bureaucratic problems for newsprint shipments.

We recognize that the U.S. Congress cannot change the definitions agreed upon in the Customs Cooperation Council, but we do ask that Congress act to assure that bureaucratic problems such as those outlined above will not occur regarding importations of newsprint into the U.S.

ANPA urges that language be incorporated in the enacting legislation to clearly state that for purposes of the U.S. Customs Bureau, the Congress intends for the U.S. to continue to use its flexible definition of "chief use" in regard to newsprint. ANPA further urges that while the U.S. accepts the CCC definition of "newsprint," it also will continue to accept as "newsprint" that which meets the current broader U.S. definition.

The same should apply both to newsprint imports and to potential future newsprint exports, in case, for example, the projected kenaf plant in Texas one day wishes to make shipments to newspapers in Mexico. The U.S. currently exports little if any newsprint, but should export markets develop, U.S. acquiescence to the CCC definition of newsprint should pose no problem from the U.S. government.

The committee should understand that newsprint importation is a vital factor in the publication of U.S. newspapers, and for that matter is a vital factor for the U.S. Government Printing Office. GPO is a large consumer of newsprint because both the Congressional Record and the Federal Register are printed on newsprint.

In 1986, U.S. newsprint consumption was close to 12 million metric tons. The U.S. newsprint manufacturing industry is expanding. Between 1976 and 1987, U.S. newsprint production capacity grew at an average annual rate of 3.35 percent, compared with 0.9 percent in Canada and a world average of 2.45 percent. Yet, in 1986, U.S. newsprint consumers still were forced to import 59.6 percent of their newsprint needs.

ANPA became concerned about the CCC newsprint definition years ago. The U.S. government has been responsive to our concerns, but the CCC represents many nations. U.S. newpapers, even with the help of our government, did not succeed in changing the definition prior to CCC agreement. Part of the reason is that by the time we learned of it in 1982, the definition was already well-entrenched in the developing Harmonized System.

Our job now is to forge a united effort on behalf of newspapers worldwide to seek amendment to the newsprint definition through CCC channels after the nations of the world have agreed broadly to the new system. Newspapers worldwide need a newsprint definition flexible enough to accomodate changing technology which fosters increased competition between pulp resources and evolving newsprint qualities as the printing business experiments with new press technologies and new ink formulations.

ANPA is at the forefront of press technology and ink formulation. We know that good quality newsprint can be made from a wide variety of pulp sources.

The economics of the marketplace should determine which pulp sources are used, which manufacturing methods are used, and which characteristics combine to provide newsprint of high quality which will print well using new press technology and ink formulations.

The restrictive CCC newsprint definition poses an unnecessary buresaucratic hurdle to efficiency in the newsprint marketplace. The U.S. government should show the way. While we embrace the new Harmonized System overall, which should assist world marketing practices generally, Congress should clearly state that the U.S. government will continue to recognize as "newsprint," paper chiefly used as newsprint.

#

AMERICAN PLYWOOD ASSOCIATION

Robert G. Anderson
Director
Market Research and
Economic Services Division

November 16, 1987

Mr. Robert Leonard, Chief Counsel
House Ways and Means Committee
Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Leonard:

We have been advised that the House Ways and Means Committee is seeking public comment on the conversion of the Tariff Schedules of the United States (TSUS) into the nomenclature of the Harmonized System (H.S.).

The American Plywood Association, which represents about 80% of the U.S. softwood plywood and waferboard/OSB industry, has been active since the beginning of these discussions attempting to clarify, first, our own TSUS, and then make sure the transfer to the H.S. is in line with the industry's interests. We want to repeat again our concerns in the proposed H.S. document.

Our major concern is related to the classification of "waferboard/OSB" as "particleboard". These are two distinct and easily identifiable product lines, each with its own markets and its own characteristics. Waferboard/OSB is characterized by broad wafers of wood, usually longer than wide. Its principal markets are for wall and roof sheathing and for other structural applications. Particleboard is characterized by its smooth surface of wood particles. Its principal markets are for industrial uses as substrate for wood and nonwood veneers in furniture, fixtures and specialty products.

In the Standard Industrial Classification system, the products have been separated. However, in the TSUS and the H.S., they remain in one class with a single tariff rate.

The most recent conversion proposal includes waferboard/OSB with particleboard under the four-digit heading 4410 and combines waferboard/OSB with wood particleboard under the six-digit heading 4410.10. See H.S. Conversion, page 44-9, attached. The 4410.10 heading carries a general tariff of 4%. This has already caused some damage to our plywood industry members. For a variety of reasons concerning principally U.S.-Canadian nontariff issues, structural panels of plywood that enter must pay a 20% tariff pursuant to heading 4412.19.40. Permitting certain structural panels to enter at 4% under 4410.10 although they are used for the same purposes as plywood entering at 20% undercuts the rationale of the 20% tariff and damages the U.S. panel industry.

7011 So. 19th St. / P.O. Box 11700 / Tacoma, Washington 98411 / 206 565-6600
TLX 32 7430

We have requested and continue to request that the Article Description for 4410 be changed to "Particleboard, Waferboard/OSB and similar board of wood or other ligneous materials, whether or not agglomerated with resins or other organic binding substances:

4410.10 of Wood Particleboard	4%
4410.20 of Wood Waferboard/OSB	X
4410.90 of Other Ligneous Materials"	

This request establishes waferboard/OSB at the same level as particleboard in the headnote and permits the option of setting a separate U.S. tariff for waferboard/OSB. Waferboard/OSB is roughly equal to particleboard in U.S. volume, and is substantially greater than particleboard in Canada.

Our second major concern is in the TSUS transfer to the H.S. of items under "H.S. 4412 Plywood". The H.S. proposal terminology provides potential confusion that could permit imported panels to be assessed 8% rather than the 20% duty which all softwood plywood panels should pay.

This erroneous interpretation is corrected by Section 815 of H.R. 3, the House trade bill, and by identical language in the Senate trade bill. It is our understanding that the Administration's proposed language providing for Congressional approval of the conversion from TSUS to H.S. would provide for incorporating tariff changes such as Section 815 in the H.S. We want to be certain, however, that if the H.S. is enacted directly into law because of time constraints, Section 815, whether enacted at the same time as the H.S. or later, will still be incorporated into the H.S.

Some of APA's concerns are related to potential confusion based on terminology at the 8 digit level. While acceptance of the H.S. at the international level does not imply the need to have all problems solved at the 8 digit level, it is important that our Congress is aware of the potential confusion at this more detailed classification level.

Our industry expects the corrections will be made in due course. If the H.S. segment is removed from the trade bill for separate action, we earnestly solicit your attention to our requests so they do not "slip between a crack."

Thank you very much.

Sincerely,

Robert G. Anderson

ROBERT G. ANDERSON
Director
Market Research and
Economic Services Division

ISHC 12 memo
Aug 13, 1987
IX
44-8

PROPOSED UNITED STATES TARIFF SCHEDULE ANNOTATED

Heading/ Subheading	Stat. Suf. & cd	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
4408		Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed:				
		Coniferous:				
4408.10		Wood siding				
4408.10.10		Redwood bevel siding	m^3	Free		2.2¢/m^2
	10 3					
	90 6	Other	m^3			
4408.10.30	00 3	Wood flooring	m^3	3.2%	Free (A,E)	33 1/3%
		Wood moldings:				
		Standard wood molding:				
4408.10.40	00 9	Pine (Pinus spp)	m	1.5%	Free (A,E)	5%
4408.10.45	00 4	Other	m	Free		3%
4408.10.50	00 6	Other	m	4.5%	Free (A,E)	40%
		Wood dowel rods:				
4408.10.60	00 4	Plain	m	2.5%	Free (A,E)	5%
4408.10.65	00 9	Sanded, grooved, or otherwise advanced in condition	m^3	7.8%	Free (E)	33 1/3%
4408.10.80	00 8	Other	m^3	Free		81.70/m^3
		Nonconiferous:				
4408.20		Wood siding	m^2	Free		4.3¢/m^2
4408.20.10	00 3	Wood flooring		Free		4%
4408.20.25		Maple (Acer spp.), birch (Betula spp.) and beech (Fagus spp.)	m^3			
	40 6					
	80 3	Other	m^3			
		Wood moldings:				5%
4408.20.40	00 7	Standard wood moldings	m	Free		40%
4408.20.50	00 4	Other	m	4.5%	Free (A,E)	
		Wood dowel rods:				5%
4408.20.60	00 2	Plain	m	Free		
4408.20.65	00 7	Sanded, grooved or otherwise advanced in condition	m^3	7.8%	Free (E)	33 1/3%
4408.20.80	00 6	Other	m^3	Free		81.70/m^3
4410		Particle board and similar board of wood or other ligneous materials, whether or not agglomerated with resins or other organic binding substances:				
4410.10.00		Of wood	m^3	4%	Free (A,E)	40%
	20 0	Particleboard	m^3			
	40 8	Waferboard and oriented strand board	m^3			
	80 1	Other	m^3			
4410.90.00	00 7	Of other ligneous materials	kg	Free		20%

STATEMENT OF

THE AMERICAN TEXTILE MANUFACTURERS INSTITUTE

This statement is submitted by the American Textile Manufacturers Institute, Inc. (ATMI) on behalf of its member firms operating in the textile mill products industry (SIC 22). ATMI member firms account for more than eighty five percent of the domestic output of textile mill products.

ATMI and its member firms have a keen interest in the conversion of the present Tariff Schedules of the United States (TSUSA) into the Harmonized Commodity Description and Coding System (HS). Members of ATMI's professional staff and experts drawn from the ranks of ATMI member firms have worked closely with the relevant federal government agencies on the conversion to the HS literally from its inception. This work began in 1975: ATMI and its member firms have devoted thousands of man-hours of effort and considerable financial resources to this project. The importance which ATMI and its members attach to the HS conversion may thus be gauged.

As the Committee considers the United States' adoption of the HS, ATMI would like to bring the following facts to the Committee's attention:

- Worldwide trade in textile and apparel products amounted to $104 billion in 1985, the most recent year for which full data are available.(1) This trade expanded significantly during 1986 and will most likely show a further increase during 1987.

- The United States accounted for $24.25 billion or nearly one quarter of this global total of textile and apparel trade during 1985.

- Nearly two hundred countries participate in this trade.

The magnitude and importance of international trade in textiles and apparel and its effect on many of the world's economies is indicated by these data. It is axiomatic that given such a large volume of trade in such an essential commodity, the mechanism for documenting and recording this trade would be both voluminous and complex. And so it is that Schedule 3 of the current TSUSA, wherein textile and apparel imports are recorded,(2) has evolved over the years to currently incorporate almost 43,000 separate statistical lines. Suffice it to say that Schedule 3 is an unwieldly document. It is the bete noir of everyone in the government and the private sector concerned with trade in textiles and apparel. It contains nomenclature and descriptions that are archaic and obsolete while, at that same time, it does not, and technically can not incorporate provisions and nomenclature for many commodities that are traded (i.e. imported by the United States) in large volume. There is little question that while Schedule 3 may have been sufficient to the cause (of accurately and completely recording textile and apparel imports) ten years ago when such imports amounted to five billion square yards equivalent (SYE) and $6.4 billion, it is not sufficient today since imports have grown to fifteen billion SYE worth over $28 billion. The Harmonized System chapters for textiles and apparel, the product of twelve years' work, provide a far better framework for accurately and completely measuring the great myriad of imports than does Schedule 3.

Adoption of (the textile and apparel chapters of) the HS is further warranted on the grounds that it will enhance the ability of the United States to secure its rights attendant to its participation in the Arrangement Regarding International Trade in Textiles (the MFA) and the many bilateral textile trade

(1) Source: The General Agreement on Tariffs and Trade: International Trade 85-86.

(2) Some made-up textile products and apparel products are also included in Schedule 7 of the TSUSA.

agreements consummated thereunder. The current TSUSA and the Textile and Apparel Categories derived therefrom are supposed to provide an effective mechanism for regulating the growth of textile and apparel imports on a product (or Category) specific basis. Owing, however, to imprecise and archaic descriptions and nomenclature in the TSUSA and the existence of several "basket" categories embracing a wide variety of dissimilar products, exporting countries have managed to evade controls that their exports would otherwise be subjected to. The HS and the new system of categories based on it will eliminate most of these abuses.

Adoption of the HS would also put the United States on common footing with the rest of the world in measuring and reporting trade flows. For this reason alone, our adoption of the HS is warranted. Most of the countries of the world record and report their imports and exports according to the nomenclature embodied in the original Brussels Tariff Nomenclature (BTN) adopted by the European Community (now revised and renamed the Common Customs Tariff, or CCT). The Tariff Schedules of the United States and those of certain other countries, both industrialized and developing, bear no resemblance to the CCT. Thus, there is great disharmony among the world's trading partners in defining and quantifying more than $2 trillion worth of international commerce. It is obviously in no one's interest for this disharmony and confusion to persist. The HS was designed to and will eliminate this confusion and it would therefore be in the United States' own interest, as the largest trading nation in the world, to bring its nomenclature in conformity with the rest of the world's on January 1, 1988. To fail to do so would not only disadvantage the United States with respect to its trading partners but would also provide an indication that the United States is unprepared to accept the obligations of participation in the HS and does not assign a high degree of importance to international trade. Clearly, this is the wrong message to send to the rest of the world.

The importance of having a common tariff nomenclature in place which will enable interested parties to make valid, accurate comparisons and meaningful analyses of all countries' import and export flows cannot be overstated. Such comparisons and analyses are absolutely essential not only for individual firms and industry groups in the private sector, but for government policy makers as well. Such understanding and clarity are now promised, for the first time in history, by the HS and the opportunity for same should not be delayed. Inasmuch as legislation enabling the United States' adoption of the HS has been made part of H.R. 3 and final congressional action on H.R. 3 seems unlikely before January 1, 1988, there is the distinct possibility that the United States will not join its trading partners in adopting the HS on that date. In ATMI's view, this would be a grave error. It would create great confusion on a global scale as countries export products under one tariff nomenclature (the HS) for importation under a entirely dissimilar nomenclature (TSUSA). One can only imagine the staggering redundancy and associated costs that would be incurred by having such a "dual bookkeeping" regime in place. At the same time, the new system of product categories used to administer the United States' program of import restraints under the MFA is designed in conformity with the HS and could not be effectively administered with the current TSUSA nomenclature. In this event, hard-won United States rights under the MFA and our many bilateral agreements would be severely compromised.

ATMI therefore suggests to the Committee that it consider recommending removal of the provisions relating to the adoption of the HS from H.R. 3 to provide for direct enactment of enabling legislation and subsequent adoption of the HS on January 1, 1988.

ATMI also wishes to call to the Committee's attention the dedication and high degree of professional skill exhibited by personnel of several agencies of the federal government during the process of conversion of the TSUSA to the HS. Noteworthy in this regard have been the efforts of the Office of Tariff Affairs and Trade Agreements of the U.S. International Trade Commission, the Office of GATT Affairs of the Office of the United States Trade Representative and the Technical Management Branch of the Office of Textiles and Apparel, U.S. Department of Commerce.

The work of these individuals and the industry representatives who assisted in the drafting of the HS has produced a document that serves the needs of everyone in both the public and private sectors in the United States and abroad far better than the current TSUSA. It is in the national interest that the Harmonized System be adopted.

Applause Inc.
6101 Variel Avenue
Woodland Hills, California 91367
(818) 999-9000 Telex 215391

November 6, 1987

The Honorable Dan Rostenkowski
Committee On Ways and Means #15
US House of Representatives
1102 Longworth House Office Bldg.
Washington, DC 20515

Re: Harmonized System Implementation Act of 1987 (June, 1987)

Dear Congressman Rostenkowski:

As an importer of stuffed dolls and giftwares distributing from California and New Jersey, our company Applause Inc., agrees with the intent of the subject bill. However we take exception to: (1) Technical rectifications pertaining only to textual errors may exclude assignment of duty rates or GSP eligibility; and (2) A minimum of fifteen days to implement the Harmonized System; and (3) The financial ramifications of the rules for pending protests if duty rates are increased for one of our commodities before or after the effective implementation date of the United States Tarrif Schedule. I would like to elaborate on the dire effects to Applause and similar importers if the preceeding three areas are passed without modification from their current form.

Technical rectifications (Sec. 1 (j)(E) and 5 (d)) must be subject to review by the Commission to not only ensure "the substance or meaning of the text" was not affected, but equally important that the rectifications do not result in alteration of the duty rates prescribed nor GSP eligibility denied. Because we must pre-sell our products, our selling prices and profit margins are contingent upon the accuracy of the duty rates typed in the United States Tariff Schedule, and upon the designation of eligible countries granted duty-free status under the Generalized Systems of Preferences (GSP). The most current United States Tarrif Schedule dated July 6, 1987 omits not only which countries are GSP-eligible, but also fails to asterisk (exclude) certain countries within a country group. More specifically, Heading 9503.41.00.2 Stuffed Toys, states a special rate of (duty) free from all countries in Group A. Currently, Group A inloudes South Korea (currently Applause's largest exporting nation). Under the present Tariff Schedule of the United States, stuffed toys from South Korea are dutiable at 6.8% because an asterisk appears next to the country code of A denoting South Korea is ineligible for GSP.

Our concern is whether the current omission of country codes eligibile for GSP and the omission of the asterisks denoting non-duty free status are considered "other clerical or typographical errrors"? Because of the competitive nature of this commodity, an imposition of the general 6.8% duty rate may exceed our net profit margin, causing Applause to either sell the dolls at a loss or cancel all customer orders until the matter has been reviewed by the Commission or the courts.

Secondly, fifteen days minimum written notification to convert to the Harmonized System (sec.(1)(E)(3)) is not ample time for importers, their customshouse brokers, nor US Customs. You must realise that like Applause, many importers and their agents are benefiting from computerized entries with US Customs. With the vast amount of data that must be reviewd, translated, and re-enetred in all these computers, the backlog would be so great as to put all imports "on hold" during these fifteen days while computers are being changed over. Fifteen days without some of our seasonal merchandise or best-sellers, could spell disaster for Applause as well as most any other importer.

Furthermore, if the Harmonized System is to go into effect January 1, then notification could appear as late as December 15 in the Federal Register. Unfortunately, during this holiday period many companies are closed or are preparing for end-of-month, -quarter, or -year shipping and physical inventorying. Even if all computers were converted by January 1, no one would know if the conversion worked because there would not be sufficient time to test all the databases involved.

Our recommendation is to give the US importing community and Customs a minimum of sixty (60) days written notice of implementain so these databases can be changed and tested and preferably with an additional thirty day parallel processing under both the TSUSA and HS classifications. This approach would facilitate processing of any non-liquidated entries during Christmas/Chanykkah and before the New Year - possibly even help the Balance-of-Trade statistics and the Federal deficit.

Regarding the Transition Rules for Pending Protests Sub (1)(n)(1-4), this section is unclear whether the entries in question are specific to one importer or applicable to all importers of the protested commodities. Furthermore, it is unclear from the text whether any increases or decreases in duty rates resulting from protest decisions will be retroactively and/or proactively applied to either liquidated or unliquidated entries. Applause is concerned that American manufacturers, under section 516b of the Tariff Act of 1930, could force general and applicable duty rate increases on some of our commodities. As discussed previously, a dramatic and unpredicted increase in the general rate of duty can financially devistate any US company. Oviously, this is not the intent of this or any other bill.

In summary, Applause is requesting the Harmonized System Implementation Act of 1987 be ammended to further define technical rectification, to extend the conversion notification deadline from a minimum of fifteen days to a minimum of thirty (30) days of parallel processing after a sixty (60) day system conversion, and to redefine and refine the language regarding protests rulings during the transitionary phase.

I personally appreciate you taking the time to consider our company's viewpoints on this bill and wish you and your family a joyous holiday season and a healthy and prosperous new year.

Sincerely,

Darrow Weiss

Darrow Weiss
Import/Export Manager

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November 9, 1987

FILE REFERENCE NO.

971

Robert J. Leonard, Esq.
Chief Counsel
Committee on Ways and Means
U. S. House of Representatives
Longworth House Office Bldg.
Room 1102
Washington, D.C. 20515

Delivered by Messenger

RE: Proposed Changes to Heading 8471 of the Proposed United States Tariff Schedule Annotated in the Harmonized System Nomenclature (Harmonized System)

Dear Mr. Leonard:

We have been furnished with a draft proposal by the International Trade Commission to revise the provisions of Heading 8471 providing for the classification of automatic data processing machines and units thereof (copy enclosed). It is our understanding that this draft proposal has been submitted to the Committee on Ways and Means with a recommendation that it be substituted for the heading contained in the July 1987 draft of the Harmonized System.

This draft proposal breaks out Item 8471.93.70 providing for classification of power supplies at a duty rate of 3 percent ad valorem. On behalf of our client, Astec USA (HK) Limited, Santa Clara, California, we wish to go on record as strongly opposing this proposed change. Astec is a major importer of power supplies, including power supplies dedicated to use in computers.

Under the Harmonized System draft of July 1987, it appears that power supplies which are imported without a base for use in automatic data processing machines would be classified in Item 8471.99.40 as "other" units of automatic data processing machines, not having a base for fixing or placing them on a table, desk, wall, floor or similar place and not incorporating a cathode-ray tube, at a free rate of duty.

This provision was included in the draft Harmonized System after public hearings, after the public was given notice of the proposal and an opportunity to comment, and after careful and considered negotiations. It should not now, at the last minute, without a public hearing, without opportunity for public comment, and without negotiations, be precipitously changed to a dutiable status.

The July 1987 draft of the Harmonized System was the result of years of careful, prolonged, painstaking work and negotiations, with all interested parties having an opportunity to be heard. This draft was submitted to Congress as a finished document and should be the final document incorporated without change into enabling legislation.

Finally, Astec strongly recommends that the Harmonized System be enacted as soon as possible. As with many businesses, Astec is required to design and manufacture its products many months prior to the time that they are imported. In order to provide a price for its power supplies to its U.S. customers, Astec must be certain of the import duty rate so that the duties can be included in the selling price. Astec is simply not able to pass on increased duties to its U.S. customers. Four months' notice of implementation/enactment of the Harmonized System will greatly expedite the ability of Astec and other companies to price their merchandise to their customers.

Your favorable consideration of these matters will be greatly appreciated.

Very truly yours,

Law Offices of
GEORGE R. TUTTLE,
A Professional Corporation

By _____
Irving W. Smith, Jr.

8471		Automatic data processing machines and units thereof; magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included:	
8471.10.00		Analog or hybrid automatic data processing machines	4.9%
8471.20.00		Digital automatic data processing machines, containing in the same housing at least a central processing unit and an input and output unit, whether or not combined	3.9%
		Other:	
8471.91.00		Digital processing units, whether or not entered with the rest of a system, which may contain in the same housing one or two of the following types of units: storage units, input units, output units	3.9%
8471.92		Input or output units, whether or not entered with the rest of a system and whether or not containing storage units in the same housing:	
8471.92.10	*	Combined input/output units	3.7%
		Other:	
8471.92.20	*	Keyboards	Free
		Display units.:	
8471.92.30	**	Without CRT, having a video display diagonal not exceeding 30.5 cm	Free
8471.92.40	**	Other	3.7%
		Printer units:	
8471.92.65	**	Assembled units incorporating at least the media transport, control and print mechanisms	3.7%
8471.92.70	**	Other	Free
		Other:	
[8471.92.80	***	Units designed for incorporation into ADP machines or units thereof	Free]

DRAFT

October 31, 1987

8471 (con.)		Automatic data processing machines and units thereof; magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included (con.): Other (con.):	
8471.93		Storage units, whether or not entered with the rest of a system:	
		Magnetic disk drive units:	
		For a disk of a diameter exceeding 21 cm (8 inches):	
8471.93.10	**	Without read-write unit assembled therein; read-write units separately entered.....	Free
8471.93.20	*	Other.....	3.7%
		Other:	
8471.93.30	*	Not assembled in cabinets, and without attached external power supply.....	Free
8471.93.40	*	Other.....	3.7%
		Other storage units:	
8471.93.50	*	Not assembled in cabinets for placing on a table, desk, wall, floor or similar place.....	Free
8471.93.60	*	Other.....	3.7%
		Other:	
8471.93.70	***	Power supplies.....	3%
		Other:	
[8471.93.80	***	Units designed for incorporation into ADP machines or units thereof.....	Free]
[8471.93.90	***	Other.....	3.7%]

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11/5/87

Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102
Longworth House Office Building
Washington, D.C. 20515

Re: Comments on Harmonized System

I write regarding the duty rate for 6205.20.20 in the HCC. This proposed tariff shows a duty rate of 21% for this tariff number. The equivalent 5 digits numbers and duty rates for mens, boys and male infants cotton woven shirts in the present Tariff Schedule of the United States Annotated is as follows;

381.05 - 21%
381.55 - 21%
381.56 - 21%
384.05 - 16½%
384.46 - 16½%

The trade in these numbers should have been weighted. This would have resulted in a duty rate somewhere between 21% and 16½% rather than the rate of 21% that was put in the proposed tariff. The trade figures are available to figure out what the combined duty rate should be. The rate should be changed to reflect the weighted duty rate. Thank you.

Yours truly,

Al Dwek

Al Dwek

COMMENTS SUBMITTED ON BEHALF OF BORDEN, INC. CONCERNING THE NEED FOR LEGISLATIVE HISTORY TO CLARIFY THE PROPER CLASSIFICATION OF SWEETENED CONDENSED FILLED MILK UNDER THE HARMONIZED SYSTEM

We are submitting these comments in response to press release #19 of the Committee on Ways and Means, U.S. House of Representatives, dated October 26, 1987, requesting written testimony on the proposed implementation of the conversion of the Tariff Schedules of the United States (TSUS) into the nomenclature structure of the Harmonized Commodity Description and Coding System (Harmonized System) as part of H.R. 3, the Trade and International Economic Policy Reform Act of 1987.

On behalf of Borden, Inc., we respectfully request that the Committee clarify through the legislative history to H.R. 3 that sweetened condensed filled milk is classified under subheading 1901.90.30 of the Harmonized System, "Malted milk; articles of milk or cream not specially provided for." This subheading is subject to a dairy quota set forth in subheading 9904.10.60 which limits imports to 2721 kilograms per year. Given the adverse impact of rising sweetened condensed filled milk imports on the U.S. dairy industry, it is critical that such imports be subject to the dairy quotas. We are authorized to state that the Associated Milk Producers, Inc., Dairymen, Mid-America Dairymen, Inc., and Milnot Company support the application of this dairy quota item in the Harmonized System to imports of sweetened condensed filled milk.

Sweetened condensed filled milk is a food preparation that consists of nonfat milk solids, sugar and vegetable oil. It is identical to sweetened condensed milk, a product manufactured in the United States by Borden, Inc. and other U.S. companies, except that sweetened condensed filled milk replaces the butterfat found in sweetened condensed milk with vegetable oil. The two products are used in many American homes for baking and other purposes.

For years, the vast majority of sweetened condensed milk and sweetened condensed filled milk used in the United States has been manufactured here with milk from U.S. dairy farms located in Pennsylvania, Louisiana, Wisconsin, Mississippi, Arkansas, Missouri, Oklahoma, Kansas and Kentucky. In 1986, approximately 150 million pounds of raw and concentrated skim milk from U.S. dairy farms were used to make sweetened condensed milk and sweetened condensed filled milk in the United States. However, these sales of U.S. milk have been threatened because of rising imports of sweetened condensed filled milk following a 1981 Customs Service ruling that created a loophole to the dairy quotas. In that ruling, the Customs Service determined that sweetened condensed filled milk should be classified according to the component material of chief value. If sweetened condensed filled milk was in chief value milk, it was to be classified in TSUS 118.30, which is subject to a quota under TSUS 950.11 of 6000 pounds annually. However, if the product was in chief value sugar, it was to be classified in TSUS 183.05 and was not subject to any quota. Because the Customs Service did not determine at that time whether sweetened condensed filled milk was in chief value milk or sugar, importers were able to evade the dairy quotas by claiming that the product was in chief value sugar.

Sweetened condensed filled milk imports first became a noticeable problem in late 1984 or early 1985. Since then, these imports have become an increasingly important factor in the market. In 1986, such imports, principally from Australia and Jamaica, rose to over 3 million pounds. While this is less than 5 percent of the U.S. market for sweetened condensed milk, other manufacturers located in Thailand and other Far East countries are entering the market. Because all of these imports are priced significantly below the U.S. product, they are gaining market share. These imports, if allowed to continue, could capture 25 percent of the U.S. market in the next few years.

At the request of various U.S. dairy processors, the Customs Service agreed in July 1986 to reconsider its 1981 ruling which permitted importers of sweetened condensed filled milk to evade the dairy quotas by declaring the product to be in chief value sugar. In July 1987, the Customs Service revoked the 1981 ruling by determining, based on the "chief value" test in the current TSUS, that sweetened condensed filled milk was in chief value milk and properly classified in TSUS 118.30, "Malted milk; and articles not specifically provided for, of milk or cream" subject to an annual quota of 6,000 pounds under TSUS 950.11.

Despite the Customs Service's clear pronouncement that sweetened condensed filled milk is properly classified in TSUS under an item subject to the dairy quotas, the "chief value" test on which the Customs Service based its July 1987 ruling is not applicable under the Harmonized System. We believe that sweetened condensed filled milk should be classified under subheading 1901.90.30, which is subject to the same annual quota as TSUS 118.30, and we have filed a ruling request with the Service asking it to determine the classification of sweetened condensed filled milk under the Harmonized System. Because the Service has not yet ruled and because its views are not yet clear, we request that the Committee clarify the point by way of legislative history to ensure that once the Harmonized System goes into effect importers of sweetened condensed filled milk will not be able to evade the dairy quotas, as they have in the past. The legislative history should specify that it is the Committee's intent that sweetened condensed filled milk be classified under subheading 1901.90.30 of the Harmonized System, "Malted milk; articles of milk or cream not specially provided for" which is subject to a dairy quota set forth in subheading 9904.10.60 limiting imports to 2721 kilograms per year.

Thank you for your attention to this issue of critical importance to the U.S. dairy industry.

Michael A. Nemeroff
Deborah B. Leahy
SIDLEY & AUSTIN
1722 Eye Street, N.W.
Washington, D.C. 20006

Proposed Legislative History Concerning
Sweetened Condensed Filled Milk

The Committee intends to clarify the classification of sweetened condensed filled milk under the Harmonized System. Sweetened condensed filled milk is a food preparation that consists of nonfat milk solids, sugar and vegetable oil. The Committee is concerned about the impact of imports of sweetened condensed filled milk on the U.S. dairy industry and intends that such imports be subject to the dairy quotas. Accordingly, the Customs Service should classify sweetened condensed filled milk under subheading 1901.90.30 of the new Harmonized System, "Malted milk; articles of milk or cream not specially provided for." This subheading is subject to a dairy quota set forth in subheading 9904.10.60 which limits imports to 2721 kilograms per year.

STATEMENT OF

BRECHTEEN COMPANY

VISTA INTERNATIONAL PACKING COMPANY

This statement is submitted on behalf of the Brechteen Company, Mt. Clemens, Michigan, and Vista International Packaging Company, Kenosha, Wisconsin (a subsidiary of Hormel International Corporation) with respect to the proposed conversion of the Tariff Schedules of the United States into the language of the Harmonized Commodity Description Coding and System ("Harmonized System"), and pursuant to the invitation for comments of the Committee on Ways and Means (Release No. 19, October 26, 1987), with respect to the implementation of the Harmonized Code. Brechteen and Vista are engaged in food processing operations, including production and sale of sausages and other meat products. In this connection, both companies are substantial importers of various types of sausage casing materials. Consequently, an accurate, rate-neutral conversion of the tariff schedules to the Harmonized System is of considerable importance to these substantial food processing concerns.

As proposed by the Trade Policy Staff Committee to the Committee on Ways and Means, the draft conversion of the TSUS to the Harmonized System creates an anomaly which will result in either the misclassification of certain composite fibrous paper material/cellulosic plastic sausage casings, or in the application of a higher rate of duty than currently assessed on such products. While this problem has been noted by Brechteen and Vista during the conversion of the TSUS by the Trade Policy Staff Committee, the final version of the converted TSUS does not correct the problem; therefore, the substantial likelihood of classification error and a substantial increase in duties (without regard to existing duty bindings and compensation to U.S. trading partners for tariff increases resulting from the conversion), will exist upon the enactment and effectuation of the converted tariff system.

Certain sausage casings which are made of a composite consisting of a fibrous paper material coated with a cellulosic plastic, are presently classified under TSUS item 790.47, as follows:

> Sausage casings not specially provided for whether or not cut to length:
>
> | | | |
> |---|---|---|
> | 790.45 | Of cellulosic plastics materials . . . . . | 6.6% |
> | 790.47 | Other . . . . . | 4.2% |

Since the casing is in chief value of paper, it is classified as sausage casings other than of cellulosic plastic materials, dutiable at a rate of 4.2% ad valorem.

Under the Harmonized System conversion, the equivalent provision is in chapter 39, "Plastics and Articles Thereof", which provides in Chapter Note 8 that the term "tubes, pipes and hoses . . . includes sausage casings and other lay-flat tubing." The converted provisions are as follows:

> Tubes, pipes and hoses and fittings therefor (for example, joints, elbows, flanges), of plastics:
>
> Artificial guts (sausage casings) of hardened protein or of cellulosic plastics materials:
>
> | | | |
> |---|---|---|
> | 3917.10.10 | Of cellulosic plastics materials . . . . | 6.6% |
> | 3917.10.50 | Other . . . . . | 4.2% |

The cross-reference between the TSUS and proposed Harmonized System language, as prepared by the U.S. International Trade Commission in connection with the conversion proceding, indicates that all imports presently classified under TSUS Item 790.4500 and 790.4700 have been allocated to Harmonized System converted heading 3917.10.10 and 3917.10.50, respectively, indicating that the composite paper/plastics sausage casings described above should be classified under heading 3917.10.50, properly dutiable at a rate of

4.2% ad valorem. However, the general rules of interpretation for the Harmonized System conversion will implement a significant change from the current interpretive rules of the TSUS, in that articles which are made "of" composite materials will no longer be classified on a chief value basis, but rather "shall be classified as if they consisted of the material or component which gives them their essential character . . .". Harmonized Code General Rule 3(b). Consequently, in order for the sausage casing to be "of" either hardened protein or cellulosic plastics, those materials must impart the article's "essential character". In this instance, hardened protein is not present and the essential character is provided by the fibrous paper material, rather than by the plastic material. Consequently, the composite sausage casing is not, apparently, described under "other" plastic sausage casings, despite the obvious intent of the conversion negotiating team to include therein sausage casings of materials other than cellulosic plastics. Similarly, certain other sausage casings which are not of cellulosic plastics materials, or of fibrous/plastic composite materials, would likewise be adversely affected under the new "essential character" classification rule.

The appropriate correction of this problem would be to amend the proper tariff heading for a composite paper/plastic sausage casing in which the paper imparts the "essential character" of the article. Such a revision would be in accordance with the interpretive rule of the Harmonized System and would retain the tariff rate as presently applied to this type of sausage casing. Absent an eo nomine provision for fibrous sausage casings, the article would appear to be classifiable under the provision describing the component material which imparts the essential character, that is, "other paper", not specially provided for, in heading 4823. This heading should be amended as follows:

4823	Other paper, paperboard, cellulose wadding and webs of cellulose fibers, cut to size or shape; other articles of paper pulp, paper, paperboard, cellulose wadding, or webs of cellulose fibers:	
	* * * * * * *	
	Other:	
	* * * * * * *	
	other:	
	* * * * * * *	
	other:	
	* * * * * * *	
	other:	
4823.90.80	Gaskets, washers and other seals	5.3%
4823.90.82	Sausage casings	4.2%
4823.90.85	Other	5.3%

This addition of a new subheading 4823.90.82 would thus incorporate the recent tariff treatment and classify the paper/plastics composite sausage casing pursuant to the essential character classification test which will now be applied when the Harmonized System is enacted. If this conversion is not corrected, a substantial amount of trade would be affected and substantial duty increases would be imposed which would require compensation to U.S. trading partners in accordance with principles of the General Agreement on Tariffs and Trade. If such an amendment can not be made prior to enactment of the code, Brechteen and Vista strongly urge the inclusion of legislative authority for technical corrections so that obvious conversion errors such as this may be remedied as soon as possible after enactment, and the normal course of trade will not be disrupted.

Respectfully submitted,

Matthew T. McGrath

David O. Elliott
Matthew T. McGrath

BARNES RICHARDSON & COLBURN

Counsel to

THE BRECHTEEN COMPANY and
VISTA INTERNATIONAL PACKAGING COMPANY

Burlington Industries, Inc.

Donald R. Hughes
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Chief Financial Officer

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November 13, 1987

The Honorable Dan Rostenkowski
Chairman
Committee on Ways & Means
U.S. House of Representatives
Washington, D.C. 20515

Subject: Adoption of Harmonized System

Dear Mr. Chairman:

This letter responds to your request for comments on the proposal to modify pending legislation on the adoption of the Harmonized System by eliminating the provision calling for fast track congressional approval and replacing it by a grant of Presidential authority to proclaim the Harmonized System directly. The purpose of this change would be to make possible the implementation of the Harmonized System effective January 1, 1988.

We strongly endorse any action you can take which would result in the implementation of the Harmonized System on January 1, 1988. In earlier comment to your Committee we have already detailed the reasons why the adoption of the Harmonized System is important to the U.S. trading community. In fact, we believe that the conversion of the TSUS into the Harmonized System has been negotiated in such a way that it is almost universally supported by the affected U.S. interests. It is a non-controversial issue.

In this letter I would like to underscore the importance - even criticality - of the timing of the implementation of the Harmonized System. As you undoubtedly know, the Harmonized System will be implemented by nearly all the major trading countries on or before January 1, 1988. Not only the private sector but also many government agencies - primarily U.S. Trade Representative, U.S. Customs, the Department of Commerce, and International Trade Commission -

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have exerted tremendous efforts to have in place all the systems necessary for the United States to implement the conversion on January 1, 1988. These efforts have included negotiating bilateral textile agreements with many trading partners based on the HS rather than the TSUS.

Quotas for 1988 and beyond have been negotiated based on the HS, not the TSUS. As a practical matter, it would be almost literally impossible to switch quotas from a TSUS base to an HS base at mid-year. To have to revert to the TSUS for the 1988 quota year would truly throw the system into disarray.

For all these reasons, I urge you to take whatever legislative steps may be necessary to achieve the implementation of the Harmonized System effective January 1, 1988.

Sincerely,

Donald R. Hughes

Donald R. Hughes

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October 22, 1987

The Honorable Dan Rostenkowski
Chairman, Ways and Means Committee
U.S. House of Representatives
Washington, D.C. 20515

Subject: Change in Duty-free Treatment of Commercial Greenhouses under the Proposed Harmonized System

Dear Mr. Chairman:

The purposes of this letter are to advise you that the conversion from the current Tariff Schedules of the United States ("TSUS") into the proposed United States Tariff Schedule Annotated in the Harmonized System Nomenclature ("Harmonized System") will increase existing rates of duty for commercial greenhouses and to request your intervention to ensure that the existing duty free treatment is preserved with respect to commercial greenhouses.

Under the current Tariff Schedules, commercial greenhouses in chief value of metal are classified as "other structures" in Schedule 6, Part 3, Subpart 7. If greenhouses are in chief weight of steel, they are classified in TSUS item 653.00 and dutiable at 5.7 percent ad valorem. If they are in chief

weight of another base metal (i.e. - aluminum) they are classified in 653.01 and dutiable at 5.7 percent ad valorem.

The Customs Service has issued binding rulings which hold that greenhouses classified in TSUS items 653.00 and 653.01 are eligible for classification as "machinery, equipment, and implements to be used for agricultural or horticultural purposes" in TSUS item 870.40, free of duty.[1]

However, this duty free treatment is not extended to commmercial greenhouses under the proposed Harmonized System.

Under the proposed Harmonized System, the identical commercial greenhouses will be classified as "other prefabricated buildings" in Heading 9406.00.80, and dutiable at 5.7 percent ad valorem.[2]

TSUS item 870.40 has been carried forward in the proposed Harmonized System in heading 9817.0050. However, U.S. note 2(ab) to Subchapter XVII, Chapter 98, excludes merchandise classified in heading 9406.00.80 from duty-free entry under heading 9817.0050.

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1 See, e.g., Customs Service Ruling letter dated December 15, 1985 (CLA-2-06:S COH:NIB:112-1387 816216) (Copy attached as Exhibit I).

2 See, Harmonized Commodity Description and Coding System, Explanatory Notes, Volume 4, (1986) at p. 1582. (Copy attached as Exhibit II).

As a result, commercial greenhouses used for agricultural purposes which were previously classified under TSUS item 870.40, free of duty, are excluded from classification in heading 9817.0050, free of duty, and will therefore be dutiable at 5.7 percent ad valorem.

The solution to the problem described above would be to amend Chapter 98, Subchapter XVII U.S. Note 2(ab) to read as follows:

> 2(ab) articles provided for in heading 9405 (except subheadings 9405.6060 and 9405.92) and subheading 9406.0080 (except commercial greenhouses). (proposed change underlined)

This change would be in full accord with both the Presidential mandate that the Harmonized System should avoid changes in the rate of duty on individual products,[3] and the Congressional mandate reflected in the current Tariff Schedules that commercial greenhouses be afforded duty free treatment.

If we can be of any assistance, please do not hesitate to contact me or Louis Schneider.

Sincerely yours,

Robert Calandra

Robert A. Calandra

---

3 46 Fed. Reg. 47897 (September 30, 1981) (emphasis added).

[BY PERMISSION OF THE CHAIRMAN:]

CANADIAN GENERAL-TOWER LIMITED --- CAMBRIDGE, ONTARIO

November 4, 1987.

Mr. Robert J. Leonard,
Chief Counsel,
Committee on Ways and Means,
U.S. House of Representatives,
Room 1102,
Longworth House Office Building,
Washington, D.C.
20515

Dear Sir:

I am responding to your invitation to the public to express their view points on the broad implications and likely effects of conversion to the Harmonized System nomenclature.

Our company, Canadian General-Tower Limited, Oakville Division, is the sole Canadian producer of fabric backed vinyl wallcoverings for commercial use. We have reviewed the proposed conversion of existing tariffs and have found the rate of duty under 3918.10.30 of the proposed U.S. tariff schedules to be 8.5% compared to tariff 355.81 at 4.2% which we are currently using.

This proposed increase could have a major impact on the U.S. companies with which we are presently doing business. Several of these companies are single sourced by C.G.T., with others we represent 50% of their business. A doubling of duties could potentially put some of these U.S. firms out of business.

On review it appears that a technical oversight may have led to an inappropriate rate increase. We export Type I & II wallcoverings. Type I was exported to the U.S. with 100% cotton backing prior to 1983, at which time the backing was changed to 50-50 cotton/polyester. Type II was exported prior to late 1983 with 35-65 cotton/polyester and then switched to 100% polyester. Both types were being entered under 355.65 during 1981-82-83 but under protest that 772.69 should apply. The U.S. Customs Service agreed in a settlement of the issue to accept entry under item 771.43. Liquidations of entries for both products during the base period 1981-82-83 were under 771.43 at 4.2%.

The enactment of the Trade and Tariff Act of 1984 caused this classification to revert to the textiles section and liquidations for both product types from 1985 to present have been under 355.81 at 4.2%.

Type I with a backing chief value of cotton should have been properly classified under 355.65 at 5.3%. The three year average of imports from Canada was $1,983,000 U.S. per year.

We are of the opinion that Type I 50/50 cotton/polyester would in fact be classified under proposed 3918.10.40 at 5.3%. We request confirmation and are prepared to agree that Type I has been subject to erroneous classification and consequently would not undergo a rate increase under the proposed HS tariff on a technical basis.

In the case of Type II (100% polyester) the U.S. concordance do not take account of the $683,000 three year average imports under 355.81 that should have been allocated to 3918.10.30. It is drawn entirely from 355.82 at 8.5% (less than 70% by weight, rubber or plastics - this description does not fit our product).

We request that our average yearly trade 1981-83 of Type II $683,000 under 355.81 be allocated to 3918.10.30. The resulting rate of duty for 3918.10.30 should in fact be 4.2% based on the above.

At present the proposed increase has our U.S. firms very concerned for their futures. I feel they would be willing to support our feelings in writing if necessary.

Another item for your consideration is the fact that we source 100% of the fabric for Type I from a textile producer in South Carolina. Secondly, we are planning to source a major portion of Type II fabric with a U.S. textile firm in South Carolina or Georgia. Both would suffer substantial financial losses without our business.

I trust this information is sufficient for you to reconsider the tariff in question. All financial data confirmed by our sales records. More detail available if required.

We appreciate this opportunity to express our concerns re: Harmonization and to make you aware of the situation our customers face. We sincerely hope every consideration will be given to us.

Please contact me if I can be of any further assistance.

Yours very truly,

R.S. Turnbull,
President.

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November 10, 1987

Fax: 202-225-4061 - Pg. 1 of 5

Honorable Dan Rostenkowski
Chairman
House Committee on Ways and Means
1102 Longworth Building
Washington, D.C. 20515

Dear Mr. Rostenkowski:

We are writing further to our letter of November 2, 1987 (herewith enclosed), to illustrate a point in reference to the implementation of the Harmonized System.

January 1st, 1988 is too soon: the enclosed Federal Register confirms that needed tools to properly implement the system will not be ready. The necessary cross references will be compiled by January 31, and very likely not available to the public until March.

Cordially,

CARMICHAEL INTERNATIONAL SERVICE

Enrico Salvo
President

ES:cg

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INTERNATIONAL TRADE COMMISSION

[332-250]

Harmonized Commodity Description and Coding System; Continuity of Import and Export Trade Statistics After Implementation

AGENCY: International Trade Commission.

ACTION: Institution of investigation.

SUMMARY: Following receipt of a request from the United States Trade Representative (USTR) at the direction of the President, the Commission instituted investigation No. 332-250 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), for the purposes of preparing a cross-reference between the current Tariff Schedules of the United States Annotated (TSUSA) and the proposed Harmonized Tariff Schedule of the United States (HTS) and compiling statistical tables reflecting U.S. import and export trade for the years 1983-1987 in terms of proposed 8-digit HTS subheadings and 10-digit Harmonized System-based Schedule B (Schedule B) numbers, respectively.

EFFECTIVE DATE: October 5, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Holm Kappler, Deputy Director (telephone 202-523-0382), or Mr. Lawrence DiRicco, Nomenclature Analyst (telephone 202-523-4053), Office of Tariff Affairs and Trade Agreements, U.S. International Trade Commission, Washington DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal (202) 724-0002.

SUPPLEMENTARY INFORMATION: In order to provide the international trade community with a means to maintain a reasonable degree of continuity in historical statistical data after the transition to HTS and HS-based Schedule B statistical reports, the USTR at the direction of the President requested the Commission to prepare: (1) A cross-reference between the current TSUSA and the proposed HTS, (2) a statistical compilation reflecting the estimated total value of U.S. imports for consumption for the years 1983-1987, both by country and in the aggregate, in terms of proposed 8-digit HTS subheadings, and (3) a statistical compilation reflecting the estimated total value of U.S. exports for the years 1983-1987, both by country of destination and in the aggregate, in terms of the 10-digit Schedule B numbers.

The USTR requested that the Commission report on the TSUSA to proposed HTSUS cross-reference no later than January 31, 1988, and on the trade statistics compilations no later than May 31, 1988, and that the Commission arrange for these reports to be available to the public in printed form and microfiche through the National Technical Information Service and on magnetic media through the Bureau of the Census.

The Commission does not plan to hold a public hearing or seek written statements or other information from interested parties in this matter.

By order of the Commission.

Issued: October 6, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-23911 Filed 10-14-87; 8:45 am]

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REPLY TO P.O. Box 54772

November 2, 1987

Honorable Dan Rostenkowski
Chairman
House Committee on Ways and Means
1102 Longworth Building
Washington, D.C. 20515

Dear Mr. Rostenkowski:

We are writing you in reference to the Harmonized System.

Our company is a service organization in the international transportation field: it employs two hundred people and serves over four hundred companies engaged in import and export.

We believe the Harmonized System, if properly implemented, will be of significant help to importers and exporters, however, the implementation date must be reasonably established, 3 to 6 months from the time the legislation is signed, to allow for an orderly transition.

Some of the reasons for this are:

1) The Harmonized System establishes conceptually a much different way to classify merchandise: the method of classification employed is complex, supported by over 1800 pages of explanatory notes. Importers, exporters, brokers, Government agencies must familiarize themselves with the new system. Seminars have taken place throughout the country (our company has participated and committed much time and expense to them); much remains to be done and understood.

2) Importers and exporters of many diverse products are not able to compute the cost of the products, determine the availability of such products - orders are usually placed 3 to 9 months in advance. Only large companies with limited product lines will have no problem.

3) The Harmonized System demands that all information included in the shipping documents be expressed in metric measures: very few shippers are prepared to do so and purchase orders are still expressed in English. We have been on the english system for centuries: the change is a laborious one.

4. The non-availability of publications needed is still a big problem, as the Harmonized System mandates the reclassification of all imported or exported items. The review and analysis of the products takes time. The Government Printing Office has not printed any tariffs yet.

A minimum of 3 to 6 months is needed between the passage of the bill and the actual implementation.

We sincerely hope you will help in getting the Harmonized System started on the right foot without the chaos and hardships that a "quick" implementation date will create. Statistics can wait when our trade deficit is in the billions: our domestic budget deficit needs your attention.

Cordially,

CARMICHAEL INTERNATIONAL SERVICE

Enrico Salvo
President

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November 6, 1987

Robert J. Leonard, Esq.
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Bldg.
Washington, DC 20515

re: Harmonized System

Gentlemen:

As a customs broker and freight forwarder, our firm has great interest in the timely implementation of the Harmonized System. As a broker we need a clear message from the Congress that the HS will be implemented on January 1, 1988. Our operation is automated and we are communicating with U.S. Customs on Automated Broker Interface, and we will be prepared for a January 1 date.

Delaying any further would create great difficulty in servicing our import clients: we would have to work with all kinds of temporary updates under the current tariff and our textile accounts would be subjected to the HS usage for their quota categories while still classifying their merchandise under the current tariff. We would also have to hold both databases in our computer for a much longer time and run duplicate entry programs.

On the export side, this system is of obvious and well known use to our clients in predictability of entry into foreign markets. It is in the best interests of our clients that this be implemented so that the U.S. is fully represented in the Customs Cooperation Council meetings on the HS in April to ensure limited voting for the EC and participation in the all-important deliberations from the beginning.

If you foresee that the Omnibus Trade Bill will not be an adequate vehicle to ensure January 1, 1988 implementation, we encourage you to break it out and attach it to a bill which will allow for this date.

Sincerely,

Castelazo & Associates

Arthur L. Litman
President

Charming Shoppes, Inc. 450 Winks Lane • Bensalem, PA 19020 • (215) 245-9100

FASHION BUG® Fashion Bug PLUS®

November 6, 1987

Robert J. Leonard, Esq.
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102, Longworth House Office Bldg.
Washington, DC 20515

Dear Mr. Leonard:

Charming Shoppes, Inc., a women's specialty retailer and a major importer of wearing apparel, accessories and related items, would like to express its complete support of the implementation of the Harmonized System on January 1, 1988 as planned.

We firmly believe that implemention on January 1 of the Harmonized System will result in the following benefits:

1. it will create a uniform worldwide system of classification, rating and rules;

2. it will provide an accurate method of gathering statistical information; and

3. by implementing the system on January 1, 1988, the United States' position will be strengthened vis á vis the rulemaking process of the Harmonized System.

For the foregoing reasons, we strongly urge expeditious action on the bill and its enactment in time for implementation on January 1, 1988.

Very truly yours,

CHARMING SHOPPES, INC.

Robert Mele
Import Manager

COMMENTS OF CHRISTIAN DIOR
ACCESSORIES, A DIVISION OF
WARNACO, INC., ON THE
PROPOSED HARMONIZED COMMODITY
DESCRIPTION AND CODING SYSTEM

These comments are filed in response to your Press Release dated October 26, 1987, by Sharretts, Paley, Carter & Blauvelt, P.C., on behalf of Christrian Dior Accessories, a division of Warnaco, Inc. ("Christian Dior"), a company which imports a variety of products. Christian Dior endorses the concept of a Harmonized System, to be used for Customs tariff, statistical and transport documentation purposes, by contracting parties throughout the world. Christian Dior believes that the creation of an international commodity system will reduce administrative burdens for all importers and exporters and allow them to more accurately monitor worldwide trade in their particular industries.

Nevertheless, Christian Dior requests that Congress make a correction to the current version of the HS in order to avoid a substantial increase in the duty rates as well as the imposition of quota and visa requirements on certain luggage, handbags, and flatgoods. Christian Dior is particularly concerned that if the HS is implemented in its present form, the demand for a portion of its product line-consisting of handbags and flatgoods with textile exteriors and leather trim and linings-will dissipate. As a result, Christian Dior and other importers of similar products may suffer substantial losses due to what we believe to be a mere oversight on the part of the drafters of the HS. We further believe that this problem can be easily corrected by a change to the U.S. portion of the HS, thereby avoiding an unintentional inequitable treatment of imported luggage, handbags, and flatgoods.

Christian Dior's products consist of handbags and flatgoods (wallets), composed of textile exteriors with leather trim and leather linings, pockets, and flaps. The leather components constitute a significant aspect of this type of merchandise, enhancing their quality, durability, and marketability. Therefore, companies such as Christian Dior utilize high-quality leather for these products, and, although the major portion of the exteriors of these articles are textile, the component material of chief value is the leather. Thus, under the current TSUS, the handbags are classified as handbags of leather, under item 706.07 or 706.09, depending on value, and are dutiable at the rates of 10 percent or 9 percent, respectively. The wallets are classified as flatgoods of leather, under item 706.05, TSUS, dutiable at the rate of 8 percent. There are no quota or visa requirements applicable to these provisions.

A review of the current draft of the HS reveals that handbags and flatgoods with textile exteriors containing leather trim and linings may be subject to substantially higher duty rates as well as quota and visa requirements. The classification of luggage, handbags, and flatgoods in the various subheadings of heading 4202 is governed by the exterior surface of the articles. Thus, the articles in issue will be classified in the provisions for handbags and flatgoods with textile exteriors, as follows:

Article	HS No.	Duty Rate	Quota Category
Cotton handbags	4202.22.4500	7.2%	369
Man-made fiber handbags	4202.22.7550	20%	670
Cotton flatgoods	4202.32.4000	7.2%	369
Man-made fiber flatgoods	4202.32.9050	20%	670

Thus, these handbags and flatgoods with man-made fiber exteriors will be subject to substantial increases in duty, and both the man-made fiber and cotton exterior articles will, for the first time, be subject to quota and visa requirements.

Because of the significant economic impact which would result from these changes and the avowed intention that the HS would be duty neutral, Christian Dior urges Congress to correct the current version of the HS to eliminate this problem. In this regard, Christian Dior suggests that statistical breakouts be inserted in heading 4202, providing for luggage, handbags, and flatgoods with exterior surfaces of textile materials and leather trim and linings. Such breakouts, with the leather duty rates and without quota categories applicable thereto, would maintain the current tariff treatment of these articles.

Christian Dior thanks the Committee on Ways and Means for the opportunity to submit these written comments on the proposed HS.

CBEMA

November 9, 1987

The Honorable Dan Rostenkovski
Chairman
House Ways & Means Committee
2111 Rayburn House Office Building
Washington DC 20515-1308

Dear Congressman Rostenkovski:

I am writing on behalf of the Computer and Business Equipment Manufacturers Association (CBEMA) in response to your October 26, 1987 request for comment on the Harmonized System, which is provided for in pending Omnibus Trade Legislation (H.R.3).

CBEMA represents the leading edge of American high technology companies in computers, business equipment and telecommunications. Its members had combined sales of more than $185 billion in 1986, representing 4.3% of our nation's gross national product. They employ more than 1.2 million people in the United States.

In 1986, the U.S. computer and business equipment industry had exports of $17.120 billion and imports of $14.936 billion. The trade surplus was $2.184 billion.

We are deeply concerned about a move within the Administration to remove three line items in the Harmonized Code (i.e., 8471.9240, 8471.9340, and 8471.9940). These so-called "technical changes" to the Harmonized System, recently submitted by the Administration to the Congress for its review and approval, would have a serious negative effect on the competitive health of our industry by adding to the costs of global equipment sourcing.

CBEMA has been working cooperatively with the Administration for some ten years on the development of the Harmonized System. Work on that portion of the Code that affects our industry was completed in October 1986. Our support for the Harmonized System has been based upon that version without further change.

Administration officials for the first time notified us of the possibility of amending the Harmonized System with respect to computer parts on October 5, 1987. CBEMA member companies met with representatives of USTR, the Department of Commerce and the International Trade Commission on October 8, at which time we became fully aware of the implications of the proposed changes.

Fundamentally, what is being proposed would deny industry the benefit granted by the Administration and the Congress when the Trade and Tariff Act of 1984 was signed by the President. That Act authorized the President to negotiate the elimination of tariffs on parts of data processing machines. This authority resulted in a tariff elimination agreement that was signed by the United States, Japan and Canada on November 22, 1985. What is now being proposed would, in effect, overturn the obligations of the United States under that agreement. Especially in combination with current sanctions on unfinished computers under the U.S.-Japan Semiconductor Agreement, these proposed Harmonized System changes represent an unacceptable reneval of tariff barriers that will significantly raise the price of U.S. computers and business equipment, reducing the competitiveness of our industry at home and abroad.

If the Administration proceeds with the proposed changes and the Congress adopts them, CBEMA will be forced to rescind its support for the adoption of the Harmonized System itself.

Computer and Business Equipment Manufacturers Association 311 First Street, N.W., Suite 500, Washington, D.C. 20001 (202) 737-8888

In informal meetings, we have given our best faith efforts to work with the ITC to try to find common ground on acceptable language. From these discussions, to which we brought a technical expert from Colorado, and from subsequent discussions with other industry technic[illegible] the country, we feel the issues and technology are so complex as to preclude any change in language from that which the Administration sent to Congress in July.

For the present, we urge you to stay with the current language which took years to produce. If the Administration were to desire to continue pursuing this issue, we suggest it would be more appropriate to convene a joint industry-government group of technical experts to see if acceptable technical amendments could be sent to the Congress in 1988.

We sincerely hope that we can continue to collaborate with you on trade issues of mutual concern, and look forward to your support for the "final" version of the Harmonized System agreed to in October 1986 without further amendment by Congress.

Sincerely,

Oliver R. Smoot

Oliver R. Smoot
Acting President

COMMENTS OF THE CORDAGE INSTITUTE
ON THE PROPOSED IMPLEMENTATION OF THE CONVERSION
OF THE TARIFF SCHEDULES OF THE UNITED STATES
INTO THE HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM

November 9, 1987

The following comments on the proposed implementation of the Harmonized System (HS) are submitted on behalf of the Cordage Institute in response to the request by the Chairman of the Committee on Ways and Means of the U.S. House of Representatives. The Cordage Institute is a trade association of domestic manufacturers of cordage products made from natural and man-made fibers. The Institute is located at 42 North Street, Hingham, Massachusetts.

The chief concern of the Institute involves the proposed treatment in the Harmonized System of imports of certain cordage made from man-made fiber material. Under the current Tariff Schedules of the United States (TSUS), imports of man-made fiber cordage products are classified within Chapter 3, Part 2.1/ These cordage products are properly considered textile products and are therefore subject to the Multi-Fiber Arrangement, or MFA. The MFA is a multilateral agreement that has been signed by several dozen countries and which governs international trade flows in textiles and apparel. According to the terms of a bilateral agreement negotiated between the United States and Korea pursuant to the MFA, there is currently a specific limit on the quantity of exports to the United States of man-made fiber cordage from Korea.

In addition to the man-made fiber cordage classified properly within these two TSUS items, there is a large volume of man-made fiber cordage entering the United States that is not being classified within these TSUS items. Most of this cordage is man-made fiber rope 2/ imported from Korea, which is made from polypropylene. The Institute believes that this rope is being entered and classified under TSUSA Item 774.5800, which is a basket classification for miscellaneous products of rubber or plastics. This anomoly in the TSUS has created a loophole through which large quantities of man-made fiber rope from Korea have entered the United States. These imports, which compete directly with domestically-produced rope and with rope entered under the two specific TSUS classifications for man-made fiber cordage, represent a circumvention of the MFA and the bilateral agreement that the United States and Korea have entered into under the MFA.

The Institute concurs, in part, with the manner in which this polypropylene rope is being treated by the HS. Specifically, the HS will provide a new separate classification for this product -- HS item 5607.49.10.00: Polypropylene cordage (other than binder or baler twine), of wide nonfibrillated strip.3/ This item has been placed within Chapter 56, which covers certain textile products including cordage covered by the MFA. Thus, the HS properly recognizes that this rope is a textile product and has provided a separate statistical category with which trade in the product may be monitored.

1/ Includes TSUS items 316.55 and 316.58. These man-made fiber stranded cordage products are classified with Textile Category 605.
2/ Cordage that is 3/16" in diameter or greater is considered "rope"; cordage with a diameter of less than 3/16" is considered "cordage."
3/ Fibrillated strip has slits at regularly spaced intervals along the strip. Nonfibrillated strip does not.

The problem lies in the failure of the HS to correct the current loophole by not placing the new HS item 5607.49.10.00 under coverage of the MFA within Textile Category 605. This also has the effect of according this item GSP duty-free treatment and a lower duty for non-GSP imports than man-made fiber cordage covered by the MFA. Yet all fibrillated polypropylene cordage and narrow non-fibrillated polypropylene cordage are covered by the MFA, are exempt from GSP treatment, and have a higher duty.

The basis for this failure relates to the form of polypropylene purportedly used to produce the rope. As noted in the definition provided above, the HS item at issue makes a specific reference to cordage "of wide non-fibrillated strip." This term is defined by the HS to mean a product containing more than 65 percent by weight of non-fibrillated polyethylene or polypropylene strip (whether folded, twisted or crimped) measuring more than 25.4mm (one inch) in unfolded, untwisted and uncrimped condition. Two major problems arise here.

First, the U.S. Customs Service has advised the domestic industry that it is unable to determine through visual inspection the following facts:

1) Whether the strips are fibrillated or not,

2) Whether the strips are one inch or greater in width; and

3) Whether 65 percent of the total weight of the rope is "of wide nonfibrillated strip."

Second, the industry has determined that, as a technical matter, there is no one here or abroad currently producing a strand made from nonfibrillated strip over one inch wide. Based on current technology to produce polypropylene strips, and strands therefrom, and the known method of production in Korea, none of the rope imported from Korea is "of wide non-fibrillated strip".

The limitations on Customs' ability to readily verify the composition of the rope only serves to maintain this large loophole in MFA coverage. Even beyond the inability to determine the actual width of any polypropylene strips used or whether they are fibrillated, the fact that a very large, but undetermined, quantity of this rope is a composite of both strips and monofilament compounds the problem. The performance characteristics of rope made from crimped, folded, or twisted strips is inferior to rope made from monofilament yarn, which necessitates the blending of strips and monofilament to achieve quality acceptable to consumers in many applications. Even on the basis of the proposed 65 percent weight threshold in the HS, the industry believes that a large portion of the imports from Korea should be classified as a man-made fiber textile product covered by the MFA.

The size and importance of this loophole is readily demonstrated by the volume of imports involved. The industry has estimated that approximately 5 million to 8 million pounds of this improperly classified rope is exported from Korea to the United States. This quantity is close to the 7.5 million pounds of U.S. imports of man-made fiber cordage from all countries and well above the 2.5 million pounds of man-made fiber cordage imports from Korea in 1986.

87-017 0 - 88 - 3

Hard statistical data from the Customs Service to verify these industry estimates are unavailable due to the present lack of a statistical breakout. However, confirming evidence is available from Journal of Commerce data. Based upon a review of entries during December 1986, it was found that 520,098 pounds of product specifically identified as man-made fiber rope entered the United States. This is far above the quantity of imports entering the United States from Korea according to U.S. Department of Commerce trade data. Official trade data show that only 89,487 pounds entered in December 1986 from Korea, while 153,443 pounds entered on average over the months of December 1986 and January and February 1987. A conservative annual estimate from these Commerce Department and Journal of Commerce data is that over 4 million pounds of man-made fiber rope is entering the United States from Korea outside of the man-made fiber cordage TSUS items.

The foregoing facts document that a serious loophole in the Tariff Schedules of the United States will be continued under the Harmonized System with respect to the proper enforcement of U.S. policy as reflected in bilateral agreements pursuant to the MFA. The HS will provide for a statistical breakout of rope imports that are currently "hidden" from scrutiny, a development that the Institute applauds. However, the far more serious problem of circumvention of existing limits on U.S. trade in man-made fiber cordage remains. On behalf of the industry, whose economic performance has been hurt by this loophole, the Cordage Institute requests that this loophole be changed in the implementing legislation for the HS. This can be readily accomplished by including HS item 5607.49.10.00 within Textile Category 605, which was intended to cover all man-made fiber cordage.

Dan River Inc.

111 West 40th Street
New York, New York 10018
212/554 5555

November 13, 1987

Representative Dan Rostenkowski
Committee on Ways and Means
1102 Longworth House Office Building
Washington, D. C. 20515

Dear Representative Rostenkowski:

For the past seven years, I have been active in developing an orderly system of transition to the Harmonized System for the textile and apparel industry. The implementation of the HS has been delayed since January 1, 1987.

I urge you and the other members of the Committee on Ways and Means to ensure that the HS is enacted effective January 1, 1988. To implement this trading system at any other time of year will result in chaos to the already fragile textile and apparel trading system.

Thank you for your consideration of this request.

Sincerely yours,

John D. Hall

John D. Hall
Director,
Market & Trade Analysis

CRAFTED WITH PRIDE IN U.S.A.

DAYTON HUDSON
DEPARTMENT STORE
COMPANY
P.O. Box 1321
Minneapolis, MN 55440

November 9, 1987

The Honorable Dan Rostenkowski, Chairman
Committee on Ways and Means
1102 LHOB
Washington, DC 20515-6348

Dear Mr. Rostenkowski:

As an international trader, our company must be able to respond to developments that will facilitate and improve the movement of our products across national borders. The Harmonized Description and Coding System (Harmonized System) is just such a development. Our international operations will be enhanced if the Harmonized System is put into effect in our customs and tariff law on January 1, 1988. If such implementing legislation is not passed, our trading operations will be damaged. The need for immediate action is compelling for the following reasons:

° The Harmonized System (HS) is a new international tariff and commodity classification system which the United States and other countries have worked over twelve years to develop. Japan, Canada, all European countries, other industrialized countries and many developing countries will implement the Harmonized System on January 1, 1988,

° When implemented by the United States the Harmonized System (HS) will allow traders to use the same trade classification system and place U.S. import and export statistics on a harmonized basis with trade flows of other nations. This will end a disadvantage which U.S. exporters have faced for many years, and which has increased in significance with the growth in automatic data processing procedures.

° The United States has been able to exert little influence on how U.S. exports are classified for tariff and quota purposes in foreign countries. As of January 1, 1988 our major trading partners are going to implement a new system and establish the mechanisms for administering changes and developments in commodity classifications. If the United States does not implement at the same time, it will lose the opportunity to influence the beginning operations of this new international classification system. This will be to the immediate and long run detriment of U.S. trade interests, particularly U.S. exporters.

- With its current unique classification system, the United States is at a disadvantage with its trading partners in the comparison of trade data. It was intended that all major trading countries change to the new system at the same time with all the incumbent benefits of an international system. If the United States does not implement the HS on January 1, 1988, the collection and publication of U.S. foreign trade statistics on a consistent basis affording sound comparison of country by country and commodity by commodity trade data for different time periods will be seriously damaged.

- Many U.S. trading firms, exporters, importers, brokers and other supporting firms have spent tens of thousands of dollars preparing for this new commodity classification system. A minimum lead time of 60 days is really needed by trading firms to convert to the new system. If the United States remains on its existing systems for classifying exports and imports, while all of its important trading partners and many other countries shift to the new international system at the beginning of the year, the results will be confusion for individual company transactions and chaos for the U.S. statistical and quota control systems.

- The two committees of jurisdiction, House Ways and Means and Senate Finance, should take steps to assure that the full implementation of the Harmonized System is effective on January 1, 1988, either through definitive approval in H.R. 3 or alternative legislation enacted by at least November 14, 1987.

We strongly urge you to work with the leadership and with your colleagues on the two committees so that this noncontroversial but much needed legislation is passed as soon as possible.

Sincerely,

Bill Steyer
Accounts Payable Manager, DHDSC

November 10, 1987

STATEMENT OF R. MICHAEL GADBAW ON
BEHALF OF DIGITAL EQUIPMENT CORPORATION

This statement is made by R. Michael Gadbaw on behalf of Digital Equipment Corporation ("Digital") in response to Chairman Rostenkowski's request for comments on the proposed implementation of the Harmonized Commodity Description and Coding System ("Harmonized System"). Digital is a major U.S. manufacturer of digital processing machines, with sales of over $10 billion and a worldwide manufacturing and marketing base. As both an importer and exporter of high-technology products, Digital supports efforts to facilitate the free flow of these products by the harmonization of international classification rules. Digital therefore supports the implementation by the United States of the Harmonized System.

We are concerned, however, about a technical issue of critical importance to Digital and other U.S. computer manufacturers that has arisen in connection with the proposed adoption of the Harmonized System. This issue concerns the preservation of duty-free treatment for imports of computer parts, as mandated by international agreements negotiated by the United States with Japan and Canada in 1985 in furtherance of an explicit congressional policy to lower trade barriers in high technology products.

We support the tariff treatment of computer parts that is reflected in the draft Harmonized System submitted to Congress in June 1987 (hereinafter referred to as the June 1987 draft Harmonized System). The language contained therein (specifically, in items 8471.92.40, 8471.93.40, and 8471.99.40) accurately reflects the classification treatment that has been accorded these products for years by the Customs Service ("Customs"), and preserves for U.S. industry the benefits of the agreements negotiated by the United States with Japan and Canada in 1985, pursuant to which the United States eliminated duties on computer parts in exchange for reciprocal concessions by those two governments. Accordingly, we urge that no amendments to the Harmonized System be adopted at this time. If any changes are contemplated, however, they should be acceptable to U.S. industry and should preserve the duty-free treatment contemplated by these agreements.

We are especially concerned about recent proposals by the Customs Service to amend the June 1987 draft Harmonized System that could result in the reclassification into dutiable, rather than duty-free, categories of a large number of products that were intended to be covered by the tariff elimination on computer parts. The effect of such amendments would be to impose significant additional costs on U.S. electronics companies, in contravention of the intent of Congress and the international obligations of the United States.

In 1984, the Congress passed the Trade and Tariff Act of 1984 ("Act"). The Act included, as a principal negotiating objective relating to high technology products, the reduction or elimination of tariffs on, and other barriers to, United States exports of high technology products and related services. To accomplish this objective, section 308 of the Act provided the President with the authority to negotiate the modification, elimination or continuance of duties on certain enumerated high technology products, including "parts of automatic data-processing machines and units thereof . . . " (computer parts). The inclusion of

computer parts in this provision was the result of significant Congressional investigation and deliberation, taking into account the views of the Administration and interested U.S. industries. Representatives of U.S. high technology industries supported the inclusion of computer parts because of the benefits that would accrue to U.S. industry as a result of lower U.S. import duties on component parts and lower duties abroad on export sales.

In lobbying for this legislation and the subsequent agreements with Canada and Japan, the U.S. industry relied on the treatment being accorded to their products at that time by Customs. Products classified in the tariff category for "parts of automatic data processing machines and units thereof . . ." (TSUS item 676.52, later supplanted by TSUS item 676.54, which was created to reflect the duty elimination) included a variety of items ranging from storage, CPU and other modules, to power supplies, to keyboard, printer, display and disk drive units. This treatment was reflected in the scope of the tariff concessions negotiated by the United States in the agreements with Japan and Canada. In exchange for the elimination of tariffs on computer parts classified under TSUS item 676.52 by the United States, Japan and Canada granted reciprocal concessions designed to balance the trade coverage of the items involved. In fact, Japan eliminated its duties on computer systems, peripherals and parts in exchange for the elimination of duties solely on parts by the United States.

The June 1987 draft Harmonized System reflects the treatment accorded by the Customs Service for the past several years and preserves the benefits intended by these agreements. It does so by incorporating provisions that distinguish computer parts from finished articles based on the absence, in the former, of a base. (The no-base (parts) categories are duty-free, while the finished categories are subject to duty.) The language in these provisions is the best language yet to be developed to capture the actual distinction administered for many years by Customs. The Administration has, however, taken steps to propose technical amendments to the June 1987 draft Harmonized System which would remove this distinction and could significantly narrow the scope of the duty-free parts provisions. These proposals follow recent actions taken by Customs to reclassify into dutiable categories under the existing Tariff Schedules a number of items formerly entered duty-free as computer parts.

We urge you not to permit amendments to the June 1987 draft Harmonized System whose effect would be to violate the international obligations of the United States and to erode the benefits to U.S. industry of the computer parts tariff elimination. If the United States abrogates its agreements with Canada and Japan, it places at risk U.S. manufacturers' access to those markets and undermines its credibility in future negotiations. Moreover, the international competitiveness of U.S. manufacturers will be significantly reduced by the increased import costs of essential components, and possibly also by increased export costs, if Japan and Canada retaliate in kind.

STATEMENT OF GEORGE SCALISE ON BEHALF OF
THE DISK DRIVE INDUSTRY CONSORTIUM

House Ways and Means Chairman Dan Rostenkowski has requested written comments on the proposed implementation of the Harmonized Commodity Description and Coding System (Harmonized System) as visualized in the pending trade bill. This statement is made by George Scalise, President and Chief Executive Officer of Maxtor Corporation. The Disk Drive Industry Consortium has asked me to present the Consortium's views on this topic. The Consortium is comprised of the following companies:

Cipher Data Corporation
Conner Peripherals
Control Data Corporation
Maxtor Corporation
Micropolis Corporation
Miniscribe Corporation
Priam Corporation
Quantum Corporation
Seagate Corporation
Tandon Corporation

Together, the Consortium represents substantially all the merchant producers of disk drives in the United States. The Consortium has gross revenues in excess of 2 billion dollars and employs more than 10,000 people.

The U.S. disk drive industry is generally satisfied with the Harmonized System as provisionally approved by the trade bill Conference Committee on October 22nd. Implementation of the Harmonized System will result in the uniform application of tariff classifications by the United States and its trading partners, thereby greatly facilitating the gathering and analysis of trade data worldwide. However, we are concerned about technical amendments to the Harmonized System that recently have been proposed by the Administration. These amendments would modify existing Customs treatment by reclassifying certain computer parts which are currently admitted duty-free as dutiable computer equipment. Such a reclassification would lessen the competitiveness of the American disk drive industry in the world market and would violate international obligations of the United States.

The Trade and Tariff Act of 1984 gave the President authority to negotiate the modification, elimination or continuance of duties on certain high-technology products, including computer parts. The Act was intended to facilitate reciprocal agreements between the United States and other nations to reduce or eliminate tariffs on high-technology products, thereby opening foreign markets to U.S. exporters. The Act quickly bore fruit. In January 1986, the United States entered into agreements with Canada and Japan. Under these agreements, both countries agreed to eliminate tariffs on a wide range of computer parts, peripherals and finished machines. In exchange, the United States pledged to eliminate tariffs on "parts of automatic data processing machines and units thereof . . ." The language of the Act, and of the subsequent agreements, was drawn directly from existing U.S. tariff schedules. All parties concerned - including Congress, the domestic industry, and the negotiators of the agreements - understood that the language was to be read in accordance with existing Customs Service interpretations.

The present version of the Harmonized System, as tentatively approved by the Conference Committee, reflects the meaning ascribed to the term "parts of automatic data processing machines and units thereof" at the time the United States entered into its international agreements. Under the Harmonized System, computer peripherals, such as disk drives, that do not have a "base for fixing or placing them on a table, desk, wall, floor or similar place . . ." are classified as non-dutiable items. The same peripherals with a base, on the other hand, are classified at a 3.7 percent rate of duty. This distinction fairly reflects the duty-free status being accorded to our products since the implementation of the computer parts agreement.

On July 2, 1987 the Customs Service issued a ruling that reclassified certain circuit boards incorporating central processing units from duty-free "parts" status to dutiable unfinished computers. Although the issue was not properly before it, Customs stated in the same ruling that the base/no-base distinction for determining whether an item was subject to duty was not valid. The immediate effect of this reclassification was to drastically narrow the range of items subject to duty-free treatment under the trade agreements with Canada and Japan. The Administration is now proposing to codify the decision of the Custom Service by means of technical amendments to the Harmonized System. These Amendments would abolish the base/no-base distinction which existed at the time the international agreements were entered into and which is the present basis of the Harmonized System.

The American disk drive industry believes that the amendments proposed by the Administration are undesirable. The amendments would deprive American industry of the benefits of the international agreements. The overhead costs of the disk drive industry are high. We presently invest 8-10 percent of our gross revenues in research and development alone. American producers have used the cost savings generated by the agreement with Japan and Canada to fund the increasing research and development and capital investment requirements necessary to stay competitive in this industry. Thus, by increasing the cost of component parts, the amendments would impair the competitiveness of the American computer industry in world markets.

In addition, modification of the Harmonized System language would constitute a violation of our nation's international commitments and would reduce our credibility in future negotiations. The American computer industry must retain and expand its position in foreign markets if it is to remain strong. If we fail to meet our obligations under the agreements, American tariff-free access to the Japanese and Canadian computer markets could be jeopardized. Nor will other nations be willing to enter into future trade arrangements if the United States violates existing agreements entered into less than two years ago.

The disk drive industry is opposed to the modifications of the Harmonized System proposed by the Administration. Any modifications should preserve the benefits of our 1986 agreements with Japan and Canada by retaining duty-free status for those items which the Customs Service has admitted without duty for several years past. Further, ample time must be allowed to afford the industry an opportunity to carefully review any proposed changes, to discuss those changes with Congress, and to otherwise be allowed some input in the process. The Administration's proposed modifications of the Harmonized System, which would simply delete duty-free treatment for disk drive units under the

Harmonized System, were submitted on short notice and with little opportunity for industry participation.

In conclusion, the current formulation of the Harmonized System is acceptable to the disk drive industry. The Administration's proposed amendments, on the other hand, are far from satisfactory, and we urge Congress to reject them.

This Statement is Submitted By:

George Scalise
President and CEO
Maxtor Corporation
211 River Oaks Parkway
San Jose, CA 95134

On Behalf of the Disk Drive Consortium:

Cipher Data Corporation
10101 Old Grove Road
San Diego, CA 92131

Conner Peripherals
2221 Old Oakland Road
San Jose, CA 95131

Control Data Corporation
Data Storage Products Group
8100 - 34th Avenue South
Minneapolis, MN 55440

Maxtor Corporation
211 River Oaks Parkway
San Jose, CA 95134

Tandon Corporation
405 Science Drive
Moorpark, CA 93021

MiniScribe Corporation
1861 Lefthand Circle
Longmont, CO 80501

Priam
20 West Montague Expressway
San Jose, CA 95134

Quantum Corporation
1804 McCarthy Boulevard
Milpitas, CA 95035

Micropolis Corporation
21123 Nordhoff Street
Chatsworth, CA 91311

Seagate Technology
920 Disc Drive
Scotts Valley, CA 95066

December 7, 1987

The Honorable Dan Rostenkowski
Chairman
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to express the views of the Disk Drive Industry Consortium with respect to the Harmonized System. The Consortium consists of the following ten companies, which together comprise virtually all the merchant manufacturers of disk drives in the United States.

Cipher Data Corporation San Diego, CA	MiniScribe Corporation Longmont, CO
Conner Peripherals San Jose, CA	Priam San Jose, CA
Control Data Corporation Data Storage Products Group Minneapolis, MN	Quantum Corporation Milpitas, CA
Maxtor Corporation San Jose, CA	Seagate Technology Scotts Valley, CA
Micropolis Corporation Chatsworth, CA	Tandon Corporation Moorpark, CA

Some weeks ago, you solicited industry comments regarding the Harmonized System. The Consortium responded by expressing its concern about proposed technical amendments to the Harmonized System that would have adversely affected the industry. I am pleased to inform you that the Administration has addressed those concerns in a manner satisfactory to the Consortium. Accordingly, the Consortium would like to register its whole-hearted support for the prompt implementation of the Harmonized System.

The Consortium need not repeat to you all the benefits of the Harmonized System, for you are surely aware of them. U.S. industry has anticipated that the Harmonized System would become effective January 1, 1988, and it has invested considerable time and effort in preparing for the change-over. The failure to complete that change-over at this late date could generate confusion. It would also deprive industry of much useful information on global trade developments. Most importantly, perhaps, the Harmonized System would aid the United States in its efforts to reduce tariff barriers facing American products abroad. In this era of massive trade deficits, any legislation which would aid American exports is especially important.

Approximately twenty-five countries, including most of the world's major trading nations, will be implementing the Harmonized System on January 1, 1988. The Consortium sincerely hopes that the United States will be among them. We seek your support in ensuring that proper steps are taken to achieve that goal.

Sincerely,

George Scalise
President & CEO
Maxtor Corporation

Eds West
Designer Award Headwear

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FAX 8189136074

Mr. Robert J. Leonard Chief Counsel
House Committee Ways and Means
1102 Longworth Building
Washington, D C 20515

Good Morning:

As an importer of clothing and after close review of the proposed harmonized system for U.S. Customs I see many factors that will cause caous within the system.

One is whereby now chief weight or chief value determines the customs category whereby a product will be imported, the harmonized system will allow essential characteristics to determine same. The proper category then becomes a "judgement call" by the customs person in charge of that commodity at a given port city. U.S. Customs is going to be inundated with disputes.

It seems we are trying to change to the harmonized world wide system but still maintain our old system. I feel the harmonized system needs additional work before it should be passed in its present form by the U.S. Congress.

Sincerely,

Howard Seegar

Howard Seegar
Vice President
HS/li

Electronic Industries Association

Peter F. McCloskey
President

November 3, 1987

The Honorable Dan Rostenkowski
U.S. House of Representatives
2111 Rayburn House Office Building
Washington, D. C. 20515

Dear Mr. Rostenkowski:

The Electronic Industries Association represents high technology companies manufacturing electronics in the United States. Last year, two-way trade for our industry exceded $83 billion. This represented thousands of export and import transactions for our members.

As a result, our member-companies are very appreciative of the benefits of the Harmonized Description and Coding System, both for facilitating movement across national borders and for information-gathering purposes. Orginally, we were pleased to see the inclusion of language to implement the HS in the omnibus trade bill. However, it now has become apparent that, unless the trade conference has reached agreement by about November 14, there is very little chance that the HS will be enacted in time for the January 1, 1988 effective date.

We believe that this will severely damage our member-companies' trading operations. Japan, Canada, all the European countries and numerous other developed and developing countries will implement the Harmonized System on January 1, 1988.

When implemented, U.S. traders will be able to apply the same trade classification system, for both imports and exports, as our major trading partners. This will speed and simplify the system, and result in more timely and accurate statistics.

The Harmonized System will enable us to accurately compare our trade statistics with those of our major trading partners. This is very important to our industry, for whom the U.S. Government is currently undertaking "MAFF" (Market Access Fact Finding) talks with a number of countries. Frequently, we must determine whether a certain country is protecting some portion of its electronics market, such as the computer or telecommunications sectors. Until the countries involved can agree on a definition of "computers" or "telecommunications" our government will not be able to effectively negotiate for U.S. access to those markets.

2001 Eye Street, N.W. · Washington, D.C. 20006 · (202) 457-4900 · TWX: 710-822-0146

The United States has had little success in influencing the classification of U.S. exports for tariff and quota purposes in foreign countries. As of January 1, 1988 our major trading partners will implement the new system, and the mechanisms for administering changes and developments in commodity classifications will be set. If the U.S. does not implement at the same time, it will lose the opportunity to influence this establishment of operating procedures. This will be both an immediate and long term detriment to U.S. traders.

Many of our companies have spent a great deal of money in preparing for the new system. A minimum of 6 weeks is really needed for our companies to convert to the new system. If the United States chooses not to implement the system, the result will be confusion for individual company transactions and chaos for the U.S. statistical and quota control systems.

On behalf of the member companies of EIA, I urge you to take the necessary steps to ensure the full implementation of the Harmonized System on January 1, 1988, either through completion of the trade bill or alternative legislation enacted by November 14, 1987.

Sincerely,

Peter F. McCloskey

STATEMENT OF

FAMOUS RAINCOAT CO., INC.

These comments are filed on behalf of Famous Raincoat Company, Inc. of New York, New York, in connection with legislation to convert the Tariff Schedules of the United States into the nomenclature of the Harmonized Commodity Description Coding and System ("Harmonized System"), and pursuant to the invitation for comments of the Committee on Ways and Means (Release No. 19, October 26, 1987), concerning the enactment and proposed implementation of the converted Harmonized Code. Famous Raincoat Company, Inc. is an importer of various types of apparel articles which are coated or treated so as to provide protection against rain and the elements. Consequently, any changes in tariff treatment caused by the conversion of the Tariff Schedules of the United States to the nomenclature of the Harmonized System which would reclassify or increase existing tariff rates for coated outerwear garments would have a substantial and adverse effect on the business of Famous Raincoat Company and numerous other companies which are engaged in the rainwear business.

The conversion of the Harmonized Code eliminated certain provisions in the TSUS covering garments for rainwear, hunting, fishing, or similar uses which are coated or filled or laminated. Under the language of the Harmonized System, coated outerwear could not be classified as apparel which is "coated" by virtue of the definition of that term contained in the Harmonized System. Instead, such apparel would be classified under apparel headings which are dutiable at much higher tariff rates. Famous Raincoats and other members of this industry addressed this problem with the Trade Policy Staff Committee during the process of the Tariff Schedule conversion, and a proposal was developed to address the issue, correlating the conversion language to present tariff treatment under the TSUS. Certain new headings were included in provisions for apparel which would cover "garments designed for rainwear", and the definition of that description has been included in an additional U.S. Legal Note to Chapter 62 of the Harmonized Code. (We understand that further changes have been made recently which may address some of the concerns discussed herein; these comments are based on the conversion as presented to the Committee in July 1987.) Since the existing tariff rate differential between apparel which is coated or filled, and that which is not so treated, is substantial, this clarification to comport the conversion with existing tariff treatment, as confirmed by numerous judicial decisions, is an extremely important part of the conversion process.

While the solution posed by the TPSC, the Customs Service, and the U.S. International Trade Commission will result in the proper classification of some imported garments in a manner parallel to the present TSUS, a few additional problems exist, which should be addressed either before enactment of the converted Harmonized Code or in the form of technical corrections. We have raised these issues with the Office of the U.S. Trade Representative and believe the Committee should note that problems still remain in the conversion draft:

(1) With respect to headings 6201.92.15, 6201.93.30, 6202.92.15, 6202.93.45, and 6203.43.35, and 6204.63.30, and the language of the Additional U.S. Note 3 to Chapter 62, the nomenclature "garments designed for rainwear" will permit some coated or filled garments presently classified under TSUS 376.54 and 376.56 to receive the same tariff treatment under the conversion. However, the limitation of this language to garments designed for "rainwear", instead of garments for "rainwear, hunting, fishing, and similar uses" as presently appears in the TSUS may be interpreted as being a narrower description, thus excluding certain types of garments the primary uses for which are not necessarily as "rainwear". Since the operative language of the provision is the water resistance test to be applied to the fabric as set forth in the headnote, the nomenclature in the above referenced Harmonized Code headings should state: "garments described in additional U.S. Note 3". Such a minor change would eliminate any uncertainty about the scope of the term "rainwear"

as applied to articles which these headings are intended to cover in accordance with the current language of the TSUS.

(2) Numerous other headings in the Harmonized Code, in addition to the six above-referenced headings, describe articles presently classifiable under TSUS 376.54 and 376.56, and account for a substantial volume of trade. Therefore, the term "garments designed for rainwear" (or, if the suggested change in the preceding paragraphs is accepted, "garments described in additional U.S. Note 3"), should be applied also to the following Harmonized Code headings, in order to effectuate an accurate, rate-neutral conversion from the TSUS to the Harmonized Code:

6203.42.20	6203.43.20
6304.62.20	6204.63.15
6209.20.30	6209.20.50
6209.20.50	6209.30.20
6209.30.30	6209.30.30
6211.32.00	6211.33.00
6211.42.00	6211.43.00

In addition, several additional Harmonized Code headings should incorporate this subheading covering garments designed for rainwear, so that the entire version of Chapter 62 is consistent with present tariff treatment, judicial interpretation, and negotiated tariff concessions.

(3) Language incorporated in additional U.S. Note 3 to Chapter 62 is purportedly representative of an industry standard water-resistance test for fabrics. This test was suggested to replace the coated apparel standards applied under the TSUS, which defines "coated or filled" not to require that such coating be visible to the naked eye. The new water resistance standard incorporated in this Chapter 62 will now classify the article according to the coating's effect on the fabric, rather than its physical characteristics. In submissions to the Office of the U.S. Trade Representative, Famous Raincoat Company pointed out that this test is the industry standard "rain test". However, the industry standard "shower test" would be the more reasonable and logical test to apply in this conversion, where the correlation goal is not primarily water resistance, but rather, effect on the fabric. Garments presently classified under TSUS 376.54 and 376.56 need not pass any specific test of water resistance or repellancy. Repeated judicial interpretations of the present language suggest the adoption of a "shower test", since the uses to which garments under these TSUS items are generally placed do not require that the coating meets rain test or water proof qualifications. Therefore, the Additional U.S. Note 3 to Chapter 62 should be revised to delete the language which imposes a two-minute rain test, and insert in its place language which would impose the 30 second shower test in accordance with industry standards.

The U.S. negotiators have worked diligently throughout the conversion process to produce a U.S. version of the Harmonized System which creates, to the extent possible, a rate-neutral equivalent schedule, consistent with present U.S. tariff treatment, the language of the Harmonized Commodity Description and Coding System, and U.S. tariff bindings and concessions reached with trading partners over the years. In some instances, such as that addressed herein, this procedure has required creative adaptation of long-standing U.S. tariff treatment to the format of the international system. The harmonization of current provisions covering coated outerwear has been particularly difficult due to the definitions in the Harmonized System which will require that any coating be visible by ocular inspection, which is directly contrary to the body of U.S. law which has developed over the years, and thus, the balance of tariff concessions in trade negotiations in reliance upon these interpretations. We believe that the development of the water resistance test is a reasonable compromise to insure the continuation of existing tariff treatment, but urge the Committee to authorize the completion of this solution by either incorporating the changes

suggested herein in the Harmonized Code prior to enactment, or authorizing their incorporation through technical corrections.

Respectfully submitted,

Matthew T. McGrath

David O. Elliott
Matthew T. McGrath

BARNES, RICHARDSON & COLBURN

Counsel to

FAMOUS RAINWEAR COMPANY, INC.

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New York - November 6, 1987

Robert J. Leonard, Esq.
Chief Counsel
Committee on Ways & Means
U.S. House of Representative
1102 Longworth Bldg.
Washington, D.C. 20515

Dear Sir:

We are Customs and International Trade Counsel to the Fashion Accessories Shippers Association (FASA) and its 52 member companies, and we are writing to you pursuant to your notice of October 26, 1987, to comment on the pending adoption of the Tariff Schedules of the United States Annotated in the Harmonized System Nomenclature. FASA members are importers of handbags, belts, luggage, personal leather goods, umbrellas, jewelry cases and costume jewelry.

The proposed Harmonized System (HS) will create a drastic change in the tariff classification of luggage, handbags and flatgoods which are in part of leather and in part of other materials. This could result in increase in duty of up to 12% on many items.

Under the present Tariff Schedules, Customs classification is often determined by the chief value of the individual component materials which are used to produce the article.

Thus, leather handbags or leather luggage which are not wholly of leather, are classified as such because the chief value of the material used is leather. Under the proposed HS, the test of chief value has been eliminated. Merchandise will be classified as it is described in the HS and thus a leather suitcase or leather handbag will still be classified as such, provided the outer surface of the article is entirely of leather. However, if the handbag or suitcase or other luggage article has an outer surface that has more than one material, such as leather and nylon, or leather and cotton, then one must determine what material gives the article its "essential character."

It is FASA's belief that when the Customs Service applies the "essential character" test to many articles which are now considered to be leather luggage, handbags or flatgoods, because they are in "chief value" of leather, these items will become textile articles under various item numbers of the HS because the "essential character" may be considered to be the textile material, and will take rates of duty which may vary for 6.5% to 20%, from current rates of 8 to 10% under TSUS item number 706.05 (flatgoods), 706.07 and 706.09 (handbags), and 706.13 (luggage).

In addition, as a result articles which are classified as leather articles under TSUS will be classified under textile provisions under the HS, and many items will also be subject to textile quotas, in addition to major duty increases.

The same result would have obtained in regard to wearing apparel in part of leather had not the USTR created special provisions and duty rates for those items.

The HS provides that certain articles of wearing apparel containing 25% or more by weight of leather, receive the same tariff treatment under HS as they do under TSUS. See HS item 6101.30.10, man-made knit coats, carcoats, etc. and item 6110.30.10, knit sweaters, sweatshirts, etc.

We believe that similar provisions should be established under the HS to classify luggage, handbags and flatgoods in which the outer surface contains 25% or more by weight of leather.

These provisions would retain the present duty rates found in the Tariff Schedules and would not be subject to quota.

We would like to propose the addition of the underscored words to the existing language in the HS.

4202.11.00 - With outer surface containing 25% or more by weight of leather, of composition leather, or of patent leather.

4202.21 - With outer surface containing 25% or more by weight of leather, of composition leather, or of patent leather.

4202.31 - With outer surface containing 25% or more by weight of leather, of composition leather, or of patent leather.

4202.91.00 - With outer surface containing 25% or more by weight of leather, of composition leather, or of patent leather.

This change in HS language will assure the members of our association that the current tariff treatment of their items will continues unchanged and will help to avoid unforeseen changes in duty rates and quota which would seriously impact on their businesses.

Thank you for your consideration.

Sincerely,

SERKO, SIMON & ABBEY

David Serko

David Serko

Sarko, Simon & Abbey
Counsellors at Law
Customs & International Trade Law

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New York - November 6, 1987

Robert J. Leonard, Esq.
Chief Counsel
Committee on Ways & Means
U.S. House of Representatives
1102 Longworth Bldg.
Washington, D.C. 20515

Dear Sir:

We are Customs and International Trade Counsel to the Fashion Accessories Shippers Association (FASA) and its 52 members, and we are writing to you pursuant to your notice of October 26, 1987, to comment on the pending adoption of the Tariff Schedule of the United States Annotated in the Harmonized System Nomenclature. FASA members are importers of handbags, belts, luggage, personal leather goods, umbrellas, jewelry cases and costume jewelry.

Among the Association's members are many importers of Jute travel, sport and similar bags provided for in item 4202.92.30 of the Harmonized System. These items under the proposed Harmonized System are dutiable at 20% ad valorem which is more than three times the current rate of duty of 6.5% under TSUS 706.38. The relevant provisions are set out here for your reference, and an illustrative sample of a jute travel bag is enclosed.

Current TSUS:

Luggage & Handbags.....
Of Textile material.....
Other:
Of vegetable fiber and not of pile or tufted construction:
Other:

706.38		Other	6.5%
	40	Handbags	
	50	luggage	

Under the Proposed Harmonized System:

Trunks, suitcases, vanity cases.....
Other:

* * * * *

4202.92	With outer surface of plastic sheeting or textile materials: Travel, sports and similar bags: With outer surface of textile materials:	
4202.92.1500	Of cotton	7.2%
4202.92.30	Other	20%

Under the current Tariff Schedules there is no distinction between Jute handbags or luggage and there is no provision for travel sport or similar bags. Such items are considered to be either luggage or handbags, but all such items are classified under 706.38 with duty at 6.5%

Under TSUS there was one provision covering jute luggage and handbags, item 706.38 with duty at 6.5%. Under H.S. that provision has been divided into three parts, one covers suitcases (4202.1212.60), one covers handbags (4202.22.60) and are for travel and sports bags (4202.92.30).

In the first two cases the duty is 6.5%, but in the case of travel and sports bags the duty has been increased to 20% because no provision was made for jute bags at 6.5%.

The only plausible explanation for this result is a technical oversight, as a result of which members of PASA estimate that approximately $40,000,000 worth of Jute travel, sport and similar bags which are on order for 1988 will be assessed with an additional duty of 13.5%. This will result in additional duties in excess of $5,000,000. This added cost will force our members to increase prices drastically, with the ultimate burden being borne by the consumer.

As the stated objective of the conversion for TSUS to Harmonized System was to be revenue neutral, we do not believe that this increase was intended, nor do we believe it is appropriate, as at present we are not aware of any domestic production of jute bags.

To correct this error we would like to propose an additional item number to read as follows:

4202.92.1600	Of vegetable fibers other than cotton	6.5%

This provision would bring the classification of jute travel sport and similar bags, in line with jute handbags and suitcases and maintain the consistency of the H.S. duty rates in its conversion from the current Tariff Schedules. Failure to make this correction will result in a terrible injustice to the handbag and luggage industry and to the ultimate consumer.

Thank you for your consideration.

Sincerely,

SERKO, SIMON & ABBEY

David Serko

David Serko

FINGERHUT CORPORATION 4400 BAKER ROAD, MINNETONKA, MINNESOTA 55343 PHONE: (612) 932-3100

November 18, 1987

Representative Dan Rostenkowski
US House of Representatives
Washington, D.C. 20515

Re: Proposed U.S Tariff Schedule Annotated in the Harmonized System

Honorable Representative Rostenkowski

I am writing to urge you and your colleagues to act swiftly upon the proposed Harmonized Tariff schedule. We are soliciting your support for the passage of this system.

Presently the Harmonized System is an amendment to the separate House and Senate trade bills. As it appears unlikely that any significant trade legislation will be passed in this calendar year it is necessary this issue be acted upon separately and decisively.

Unlike most trade legislation, the international trade community is in agreement on this issue and strongly supports it. The United States is committed by international agreement to implementing this system by January 1,1988. The transition to the Harmonized System will be revenue neutral. There seems to be no reason for not implementing the Harmonized System timely. In fact, inaction on the part of the Congress can only have negative political consequences.

Importers, exporters, U.S. Customs and other regulatory agencies have been preparing for the new system for months and in some cases years. The level of preparedness will never be greater than now. Passage of this legislation is certain. Let us not delay the inevitable and as a result cripple the international trading community.

With the above thoughts in mind, we ask for your support of the proposed Harmonized System and its speedy implementation.

Sincerely,

John Staby
Director Merchandising Operations

STATEMENT OF

FLORIDA CITRUS MUTUAL

Bobby F. McKown

Executive Vice President

This statement is filed on behalf of Florida Citrus Mutual, Lakeland, Florida ("FCM"), in response to the invitation for comments of the Committee on Ways and Means, concerning the proposed implementation in the Trade Bill (H.R.3) of the conversion of the Tariff Schedules of the United States ("TSUS") into the Harmonized Commodity Description and Coding System ("Harmonized System") (Committee Release No. 19, October 26, 1987). Florida Citrus Mutual is a voluntary cooperative association whose membership includes over 12,000 Florida growers of fresh citrus fruits and citrus for processing, who are vitally concerned with trade in these products and any changes in the U.S. tariff system which affect such trade.

Throughout the extensive period of negotiations on the conversion of the TSUS into the nomenclature and structure of the Harmonized System, FCM has provided its comments and input to the U.S. International Trade Commission and the Trade Policy Staff Committee, with respect to the conversion of those chapters of the Tariff Schedules which have an immediate and measurable impact upon the U.S. citrus industries. The final draft conversion of the TSUS into the language of the Harmonized System, in FCM's opinion, retains the appropriate tariff nomenclature and applicable duty rates for citrus fruit and processed citrus products which exist under the current TSUS. Of particular importance to the industry is the maintenance of the tariff distinction between (1) citrus juices which are natural, unconcentrated, single-strength juices which are not made from a concentrated juice, and (2) any other form of the citrus juice, including that which is concentrated and that which is made from a concentrated juice. The Tariff Schedules have long recognized this distinction and a higher rate of duty is assessed on imported citrus juice concentrate than on single strength juices. The importance of this distinction was recently reaffirmed by Congress in the Trade and Tariff Act of 1984, when the tariff nomenclature (TSUS 165.27 and -.29) was amended to prevent the simple manipulation of citrus juice products in a fashion designed solely to circumvent higher rates of duty, with potentially serious detrimental effects for the U.S. industry. See H. Rep. No. 98-1015, 98th Cong., 2d sess, 9-11 (1984). It is essential that this nomenclature as amended in 1984, be carried over into the language of the Harmonized System, which has been accomplished in the final draft conversion. No changes should be made to the tariff language now included in Heading 2009.19.

While this language has been converted with respect to the Harmonized Code subheading for orange juice (headings 2009.11.00, 2009.19, 2009.19.20, and 2009.19.40), an equivalent distinction has not yet been established in the Harmonized System for grapefruit juice in concentrate and single-strength form. The language included in the foregoing subheadings with respect to orange juice would also be included in the TSUS with respect to grapefruit juice, through the passage and enactment of section 803 of H.R.3, which provides for the same tariff nomenclature for grapefruit juice. FCM requests that a technical correction be made to the nomenclature of Harmonized Code headings 2009.20 thru 2009.20.40, to bring these provisions into conformity with provisions under which orange juice is classified, and to reflect the passage of section 803 presently included in H.R.3. As was the case with respect to orange juice and was recognized by this Committee, such an amendment will close a classification loophole which would result in tariff circumvention and could damage the U.S. industry. H. Rep. No. 100-40, 100th Cong., 1st sess., at 206 (1987).

Finally, and also with respect to citrus juices, FCM supports the metric equivalent conversion of the applicable specific tariff rates per unit of measure. These converted tariff rates will assure that imports of citrus juices continue to be assessed at intended rates so as to meet all trade agreement obligations and prevent any adverse effects to the Florida and U.S. industry.

With respect to the conversion of provisions which cover citrus fruits, mainly oranges, mandarins, and grapefruit, the Harmonized Code conversion as presented by the Trade Policy Staff Committee to the Committee on Ways and Means is likewise accurate and should not be altered prior to enactment. To the extent any amendments or changes are incorporated by the Committee prior to approval of the Harmonized System, which would result in the reduction of tariff rates applied to citrus fruits and processed citrus products, or in the reclassification of such products, Florida Citrus Mutual opposes such amendments. Furthermore, if there are any changes in the Harmonized Code conversion prior to enactment, the country of origin rules provisions of the U.S. - Canada free trade agreement should be reevaluated in light of such changes. Since those rules were negotiated on the basis of the Harmonized Code conversions as embodied in the draft of the TPSC submitted to the Committee in June 1987, any substantial changes in the content or format of the Harmonized Code could have an unintended effect on country of origin rules under the U.S. - Canada agreement. Florida Citrus Mutual emphasizes that conversion of the current Tariff Schedule should be both rate-neutral and should not affect country of origin rules or other provisions of the trade laws in a manner causing adverse impact on the U.S. industry.

Respecfully submitted,

Bobby F. McKown
Executive Vice President
FLORIDA CITRUS MUTUAL

By: Matthew T. McGrath
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George C. Langston
Chairman and
Chief Executive Officer

November 16, 1987

The Honorable Dan Rostenkowski
House of Representatives
2111 Russell House Office Building
Washington, D. C. 20515

Dear Representative Rostenkowski:

I'm writing about my concern that the conversion of the present tariff schedules of the United States (TSUSA) into the Harmonized Commodity Description and Coding System (HS) will not be accomplished by the target date of January 1, 1988. Work on this was begun in 1975 by the relevant Federal Government agencies and industry advisers who have devoted thousands of man-hours of effort and considerable financial resources to work out a system that was in the best interest to the United States and agreeable to our trading partners. The current tariff schedules of the United States and those of certain other countries bear no resemblance to the original Brussels Tariff Nomenclature, now named the Common Customs Tariff (CCT), which is used by most of the countries of the world. Adoption of the HS would put the United States on a common footing with the rest of the world in measuring and reporting trade flows.

Inasmuch as legislation enabling the United States adoption of the HS has been made part of H.R. 3 and final Congressional action on H.R. 3 seems unlikely before January 1, 1988, there is the distinct possibility that the United States will not join its trading partners in adopting the HS on that date. In our view, this would be a grave error. It would create great confusion on a global scale as countries export products under one tariff nomenclature (the HS) for importation under an entirely dissimilar nomenclature (TSUSA). One can only imagine the staggering redundancy and associated costs that would be incurred by having such a "dual bookkeeping" regime in place. At the same time, the new system of product categories used to administer the United States' program of import restraints under the MFA is designed in conformity with the HS and could not be effectively administered with the current TSUSA nomenclature. In this event, hard-won United States' rights under the MFA and our many bilateral agreements would be severly compromised.

We, therefore, suggest very strongly to the committee that it consider recommending removal of the provisions relating to the adoption of the HS from H.R. 3 to provide for direct enactment of enabling legislation and subsequent adoption of the HS on January 1, 1988.

Sincerely,

George C. Langston

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DAVID A. RIGGLE *
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** ALSO ADMITTED NY AND DC

777 THIRD AVENUE
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NEW YORK, N.Y. 10017

November 9, 1987

The Honorable Dan Rostenkowski
Chairman,
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Bldg.
Washington, D. C. 20515

Re: Proposed Implementation of the Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized Commodity Description and Coding System (Harmonized System) as Part of H.R. 3, the Trade and International Economic Policy Reform Act of 1987.

The following statement is submitted by Riggle, Keating and Craven of Chicago, Illinois on behalf of Gillette Industries, Inc. of La Crosse, Wisconsin (hereinafter Gillette), in response to the October 26, 1987 request for written comments on the proposed implementation in the Trade Bill of the conversion of the Tariff Schedules of the United States into the Harmonized Commodity Description and Coding System. Gillette is a U.S. corporation engaged in the importation and sale of down-filled articles and would be affected by provisions in the Harmonized System which would change certain practices and interpretations as to the classification of down articles under the present Tariff Schedules.

Gillette Industries, while it strongly supports the adoption of the Harmonized System, believes that the most recent draft, (**Proposed United States Tariff Schedule Annotated in the Harmonized System Nomenclature, July, 1987**) if not changed, could result in the improper classification of down-filled articles. For this reason we submit that the adoption of the Harmonized System should include the change with regard to down-filled articles as set forth below.

DISCUSSION

Under the Tariff Schedules of the United States as presently in force, down-filled articles in chief value of down are classifiable under items 748.45, 748.50 and 748.55. Imported down-filled articles in chief value of down are eligible for classification under these provisions at the rate of 4.7% ad valorem. A copy of the relevant portion of the TSUS is attached as Exhibit 1.

In contrast, the Harmonized Code July, 1987 revision would eliminate from classification as down items many of the articles which would be currently classified under the down provisions. This is due to language in the subheadings which provides certain specific minimum weight requirements. The relevant language states:

> Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 50 percent or more by weight; containing 10 percent or more by weight of down but not containing any other plumage.[1]

Gillette believes that there is a significant problem with this language and that it should be modified prior to the implementation of the code by elimination of the clause "**but not containing any other plumage**" and by reducing the 50% by weight requirement to 48%. This change will ensure that current practices will be followed and that articles which are classified as "of down" under the Tariff Schedules will continued to be classified as "of down" under the Harmonized System.

The language "**but not containing any other plumage**" should be eliminated in order to ensure that an imported article which contain 10 percent or more by weight of "down" is classified under these provisions, whether or not there is other waterfowl plumage present in the article.

As currently drafted, this provision can be read in two different ways. Under the first, 10% of the weight of the article would need to be "down" with the weight of any other waterfowl plumage subtracted and excluded from this weight. Under the second, and clearly wrong interpretation, an article which contains in excess of 10% by weight of down would not be "of down" if it contained any other waterfowl plumage. This does not comport with the general commercial meaning of the term as well as federal regulations as to what constitutes an article "of down".

The American Society for Testing and Materials, a universally recognized commercial standards setting body provides, in its Standard D 4522-86, for a tolerance by weight for down and down/waterfowl blends. The Code of Federal Regulations, at Part 253 of Title XVI (16 C.F.R. §253, et seq.), also delineates guidelines for the Feather and Down Products Industry which comport with the general commercial understanding of the these products.[2] These guidelines permit the labeling as pure down articles which contain up to 20 percent by weight of waterfowl plumage.

Thus, if the proposed language of the Harmonized Code is not changed, and if the incorrect interpretation of the provision prevails, an anomalous situation would occur whereby articles imported into the United States would not be considered to be "of down" for the purposes of import duties but would be considered to be "down" according to normal commercial standards as set forth by the Federal Trade Commission.

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[1] This language is contained in the following subheadings to the proposed Harmonized Code: 6201.12, 6201.13, 6201.92, 6201.93, 6202.12, 6202.13, 6202.92, 6202.93, 6203.42, 6203.43, 6204.62, 6204.63 and 6211.20.

[2] A copy of the guidelines is attached to this statement as Exhibit 2. The guidelines define down as a product containing at least 80% down and 20% feathers, with the down portion consisting of clusters, plumules and fiber in the amounts listed.

We submit that such an anomalous situation should not be allowed to occur. We therefore propose that the language of the Harmonized Code as codified into law should be modified from the present draft to read as follows:

> Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 48 percent or more by weight * * *

This revision would permit the classification as articles "of down" under the Harmonized System articles which are known as "down" for commercial purposes and which meet the minimum tolerances of the Federal Trade Commission guidelines. Our proposed revision would bring the Harmonized System in line with these universally recognized guidelines.

If you wish any additional information with regard to this issue, please do not hesitate to contact us. Your consideration in this matter is greatly appreciated.

Respectfully Submitted,

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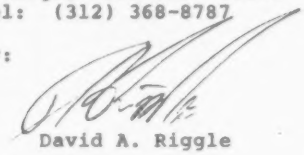
By:



David A. Riggle

Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty		
				1	Special	2
		Bouquets, boutonnieres, corsages, wreaths, and similar ornamental articles, all the foregoing made of articles described in item 748.30 or item 748.32:				
748.34	00	Wholly or almost wholly of articles described in item 748.30	X	5% ad val.	Free (A,E,I)	20% ad val.
748.36	00	Other	X	12.5% ad val.	Free (A,E) 4% ad val.(I)	75% ad val.
		Feathers, whether or not on the skin, colored or otherwise processed; feathers suitable for use as millinery ornaments; feather flowers, feather trees, and similar ornamental articles, of feathers; articles not specially provided for, of feathers:				
		Wearing apparel containing 50% or more by weight of cotton, wool, or man-made fibers, or any combination thereof, or containing 50% or more by weight of textile materials with wool comprising 17% or more by weight:				
748.45		Coats, jackets and vests		4.7% ad val.	2.8% ad val.(I)	60% ad val.
		With an outer shell of cotton:				
		Men's and boys':				
	41	Coats and jackets.....(353)	Doz. v. Lb.			
	43	Vests.....(353)	Doz. v. Lb.			
		Women's, girls' and infants':				
		Coats and jackets:				
	45	Full length.....(354)	Doz. v. Lb.			
	47	Other.....(354)	Doz. v. Lb.			
	49	Vests.....(354)	Doz. v. Lb.			
		Other:				
		Men's and boys':				
	53	Coats and jackets.....(653)	Doz. v. Lb.			
	55	Vests.....(653)	Doz. v. Lb.			
		Women's, girls' and infants':				
		Coats and jackets:				
	63	Full length.....(654)	Doz. v. Lb.			
	65	Other.....(654)	Doz. v. Lb.			
	70	Vests.....(654)	Doz. v. Lb.			
748.50		Other		4.7% ad val.	Free (A) 2.8% ad val.(I)	60% ad val.
		With an outer shell of cotton:				
	48	Men's and boys'	Doz. v. Lb.			
	50	Women's, girls' and infants'	Doz. v. Lb.			
		Other:				
	65	Men's and boys'	Doz. v. Lb.			
	67	Women's, girls' and infants'	Doz. v. Lb.			
748.55		Other		4.7% ad val.	Free (A,E*,I)	60% ad val.
	20	Sleeping bags	No.			
	40	Other	X			

EXHIBIT 1

EXHIBIT 2

PART 253—GUIDES FOR THE FEATHER AND DOWN PRODUCTS INDUSTRY

Sec.
253.1 Definitions.
253.2 Misrepresentation in general.
253.3 Use of trade names, symbols, depictions, etc.

Sec.
253.4 Misuse of the term "Tan-O-Quil-QM".
253.5 Disclosure of filling material.
253.6 Tolerances in filling material.
253.7 Crushed feathers.
253.8 Damaged feathers.
253.9 Secondhand filling material.
253.10 Cleanliness of filling material.
253.11 Disclosure as to size.

AUTHORITY: Secs. 5, 6, 38 Stat. 719, as amended 731; 15 U.S.C. 45, 46.

SOURCE: 36 FR 20744, Oct. 29, 1971, unless otherwise noted.

§ 253.1 Definitions.

(a) *Industry products.* For the purposes of this part the term "industry products" means and includes all pillows, cushions, comforters, sleeping bags, wearing apparel, and similar products which are wholly or partially filled with feathers or down, and all bulk stocks of processed feathers or down intended for use or used in the manufacture of such products.

(b) *Industry members.* All persons, firms, corporations, and organizations engaged in the processing, manufacture, distribution, or marketing of any industry product are considered to be industry members.

(c) *Filling material.* Means the contents of an industry product including feathers and down of any kind or type.

(d) *Down.* Means the undercoating of waterfowl, consisting of clusters of light, fluffy filaments, i.e., barbs, growing from the quill point but without any quill shafts.

(e) *Plumules.* Means downy waterfowl plumage with under developed soft and flaccid quill with barbs indistinguishable from those of down.

(f) *Down fibers.* Means the detached barbs from down and plumules and the detached barbs from the basal end of waterfowl quill shaft which are indistinguishable from the barbs of down.

(g) *Feathers.* Means the plumage or out-growth forming the contour and external covering of fowl which are whole in structure and which have not been processed in any manner other than by washing, dusting, chemical treatment, and sanitizing.

(h) *Waterfowl feathers.* Means feathers derived from ducks and geese.

(i) *Nonwaterfowl feathers or landfowl feathers.* Means feathers derived from chickens, turkeys, and other landfowl.

(j) *Quill feathers.* Means feathers which are over 4 inches in length or which have a quill point exceeding six-sixteenths of an inch in length.

(k) *Feather fiber.* Means the detached barbs of feathers which are not joined or attached to each other.

(l) *Crushed feathers.* Means feathers which have been processed by a curling, crushing, or chopping machine which has changed the original form of the feathers without removing the quill. The term also includes the fiber resulting from such processing.

(m) *Damaged feathers.* Means feathers which have been broken, damaged by insects, or otherwise materially injured.

(n) *Residue.* Means quill pith, quill fragments, trash or foreign matter. [Guide 1]

§ 253.2 Misrepresentation in general.

(a) An industry product should not be labeled, advertised, or otherwise represented in any manner which may have the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers concerning its filling material, covering, composition, quality, processing, testing, manufacture, durability, size, weight, maintenance, cleanliness, construction, warmth, moisture resistance, color, guarantee, origin, price, or any other feature of such product.

(b) Coverings of industry products should be labeled in accordance with the requirements of the Textile Fiber Products Identification Act and the Wool Products Labeling Act. [Guide 2]

§ 253.3 Use of trade names, symbols, depictions, etc.

A trade name, symbol, depiction, or any other kind of representation, should not be used in labeling, in advertising, or in any other kind of promotion relating to an industry product, when such representation has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers into believing that the product is composed:

(a) In whole or in part of feathers and down, or feathers, or down, when such is not the fact; or

(b) In whole or in part of feathers or down from a particular type of fowl when such is not the fact; or

(c) That the product has been given chemical treatment to improve its physical or chemical properties when such is not the fact. [Guide 3]

§ 253.4 Misuse of the term "Tan-O-Quil-QM".

(a) The term "Tan-O-Quil-QM" or any words or phrases suggestive thereof should not be used in any labeling or advertising respecting an industry product in any manner which may have the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers into believing that the product or any of its filling material has been treated by the Tan-O-Quil-QM process unless in fact all of the filling material in that product has been treated by the Tan-O-Quil-QM process developed by the Clothing and Organic Materials Laboratory, U.S. Army Natick Laboratories, Natick, Mass., in accordance with applicable U.S. Government specifications (this process is described in Technical Report 69-37-CM, "Tan-O-Quil-QM Treatment for Feathers and Down," dated August 1968).

(b) When the Tan-O-Quil-QM treatment has been applied to all of the filling materials contained in an industry product, the term "Tan-O-Quil-QM" may be used on the label, and the label should include a statement that the product has been so treated in accordance with the applicable U.S. Government specification showing the number thereof. [Guide 4]

§ 253.5 Disclosure of filling material.

(a) *Labeling.* An industry product should be labeled as to the kind or type of filling material contained therein and when the filling material consists of a mixture of more than one kind or type, then the proportion of each should be disclosed in the order of predominance, the largest proportion first.

(b) *Advertising.* Disclosure of the kind or type of filling material con-

tained in an industry product need not be made in advertising unless in the absence of disclosure a purchaser or prospective purchaser may likely be deceived. Thus, if advertising contains any representation, whether affirmative or implied, concerning the nature of the filling material, then disclosure should be made in accordance with paragraph (a) of this section.

(c) *Bulk stocks.* Invoices pertaining to bulk stocks of processed feathers and down should disclose the kind or type of feathers and down contained therein, and if more than one kind or type is contained in the bulk stock then the proportion of each should be disclosed in the order of predominance, the largest proportion first.

(d) *Manner and form of disclosures.* The disclosures described in paragraphs (a), (b), and (c) of this section should be made in accordance with the following instructions.

(1) Disclosures with respect to the kind or type of feathers and down by use of any of the terms listed and defined above will be considered proper provided such products conform to the definitions set forth for such term, except that if the term "nonwaterfowl" or "landfowl" is used, it should be accompanied by the name of the fowl from which the products were obtained, e.g., "chicken" or "turkey."

(2) Disclosures made in accordance with this part should be clear and conspicuous, and labels bearing such disclosures should be attached to the product with sufficient permanency so as to remain thereon until after sale to the ultimate purchaser.

(3) The proportion or percentage of a particular kind or type of feathers or down in an industry product should be determined by the relationship between the avoirdupois weight that the particular kind or type bears to the total avoirdupois weight of the filling material in the product. [Guide 5]

§ 253.6 Tolerances in filling material.

(a) *Down products.* The term "down" may be used to designate any industry product containing the following filling material:

	Percent
(1) Down, plumules, and down fiber (minimum)	80
Consisting of:	
Down and plumules (minimum)	75
Down fiber (maximum)	10
(2) Remainder	20
Consisting of:	
Down fiber, waterfowl feather fiber, and waterfowl feathers, and—	
Nonwaterfowl feathers and nonwaterfowl feather fiber (maximum)	2
Residue (maximum)	3

(b) *Waterfowl feather products.* The term "waterfowl feathers" may be used to designate any plumage product containing the following filling material which is free of quill and crushed feathers:

	Percent
Waterfowl feathers (minimum)	90
Nonwaterfowl feathers (maximum)	8
Residue (maximum)	2

(c) *Percentage claims.* An industry member should not misrepresent directly or indirectly the percentage of down contained in an industry product. Illustratively,

(1) A product should not be designated as "100 percent down," "all down," "pure down," or by other terms of similar import unless it in fact contains only down without regard to the tolerance set forth in this section.

(2) A product should not be represented to contain a certain percentage of feathers or down unless it in fact contains the stated percentage with due regard to the tolerances set forth in this section.

(d) *Designation of species.* An industry product may be designated by the name of a waterfowl species if a minimum of 90 percent of the waterfowl plumage contained therein is of that species.

(e) *Testing.* Tests to determine the composition of the filling material in an industry product should be conducted in accordance with Federal Standard 148a, dated December 10, 1964, entitled "Classification, Identification, and Testing of Feather Filling Material."

(f) *Adulteration.* The tolerances set forth in this section are not to be construed to permit intentional adulteration. [Guide 6]

§ 253.7 Crushed feathers.

An industry product which contains crushed feathers should be labeled with a clear and conspicuous disclosure of that fact. A crushed feather product should not contain residue in excess of 5 percent of the weight of the crushed feathers contained therein. [Guide 7]

§ 253.8 Damaged feathers.

An industry product which contains damaged feathers in an amount in excess of 2 percent of the total weight of the filling material should be labeled with a clear and conspicuous disclosure that it contains damaged feathers. [Guide 8]

§ 253.9 Secondhand filling material.

(a) An industry product which contains any filling material which has previously been used should not be offered for sale unless a clear and conspicuous disclosure of that fact is made on the label thereof and in all advertising and invoices relating to such product.

(b) In making the disclosure referred to in paragraph (a) of this section the term "secondhand" may be used. However, such terms as "reworked," "reprocessed," or terms of similar import should not be used unless they are accompanied by a clear and conspicuous statement that such material is not new or has previously been used. [Guide 9]

§ 253.10 Cleanliness of filling material.

(a) An industry product which contains filling materials which have not been cleaned so as to meet the standard set forth in paragraph (b) of this section should not be offered for sale or sold.

(b) A test such as that reflected in Federal Standard 148a, dated December 10, 1964, entitled "Classification, Identification, and Testing of Feather Filling Material," should be used to determine whether feathers and down have been properly cleaned. Feather and down material having an oxygen number exceeding 20 grams of oxygen per 100,000 grams of sample should be presumed not to have been properly cleaned. [Guide 10]

§ 253.11 Disclosure as to size.

(a) *Sleeping bags.* The sizes of sleeping bags should be disclosed by labeling and such sizes should be expressed in terms of the finished length and width measurements of the bag in inches qualified by the words "Finished Size". If any representation of the "Cut Size" or the dimension of the materials used in the construction of sleeping bags, are made in labeling, advertising, marking, or otherwise, the provisions of the Commission's Trade Regulation Rule on the "Advertising and Labeling as to Size of Sleeping Bags" should be followed (see Part 400 of this chapter).

(b) *Comforters, etc.* The sizes of comforters and other similar industry products should be disclosed by labeling and such sizes should be expressed in terms of the finished length and width measurements in inches exclusive of any fringe ornamentation.

(c) *Pillows, cushions, etc.* The sizes of pillows, cushions, and other similar industry products, when disclosed by labeling, should be expressed in terms of finished measurements in inches qualified by the words "Finished Size." This statement may be followed in parentheses by a notation of product measurement in inches prior to finishing, such parenthetical expression to include the phrase "Cut Size." Thus, an example of proper size marking when a pillow has a finished size of 21" x 27" and a cut size of 23" x 29", and disclosure is made of the cut size, would be:

Finished Size 21" x 27" (Cut Size 23" x 29").

[Guide 11]

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President's E Award for Export Service

October 16, 1987

COMMITTEE ON
RECEIVED
OCT 22 1987
WAYS AND MEANS

Honorable Dan Rostenkowski, Chairman
Ways and Means Committee
2111 Rayburn Building
Washington, D. C. 20515

Dear Congressman Rostenkowski:

The "New Harmonized Commodity Coding System" (HS) as you know has become mired down being a rider to the proposed Trade Bill now before Congress. Some sources are predicting another six months delay for the Trade Bill.

Congressional approval of the "Harmonized System" is very necessary at this time to permit the United States to participate with 150 countries in 1988 to harmonize customs operations, thus facilitating international trade.

Our member companies have gone to the expense of sending their respective staffers to HS seminars and have made other expenditures in preparation to perform their respective tasks. Industry has done its part.

Now, it is time for Congress to act.

We urge you to use your leadership in arranging the transfer of the HS from the Trade Bill to the Continuing Resolution or another appropriate bill for its earliest approval.

Your favorable consideration to this request will be very much appreciated.

Sincerely,

Geo. L. Fischer

GEORGE L. FISCHER
Chairman, Freight Forwarders
& Customs Brokers Committee

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November 9, 1987

BY HAND

The Honorable Dan Rostenkowski
Chairman,
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Bldg.
Washington, D. C. 20515

Re: Proposed Implementation of the Conversion of of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized Commodity Description and Coding System (Harmonized System) as Part of H.R. 3, the Trade and International Economic Policy Reform Act of 1987.

Dear Mr. Chairman:

This statement is submitted by the undersigned counsel on behalf of our client, Herman's Sporting Goods, Inc., a U. S. Corporation engaged in the sale and importation of plastics-coated outerwear in response to the request for written comments on the proposed implementation in the Trade Bill of the Conversion of the Tariff Schedules of the United States (TSUS) into the Harmonized Commodity Description and Coding System contained in the Committee's Press Release No. 19 of October 26, 1987.

We understand that the proposed conversion of the Tariff Schedules of the United States to the language of the Harmonized Code [Proposed United States Tariff Schedule in the Harmonized System Nomenclature (Preliminary) June 1987] is intended to be rate neutral. We believe that the most recent revision will result in the improper classification of most imported plastics-coated outerwear presently classifiable under Items 376.54 and 376.56, TSUS, and, as a result, erroneously increase the duty applicable to such apparel.

BACKGROUND

Under current tariff treatment imported outerwear which has a transparent plastics coating is eligible for classification under the tariff provision covering "garments designed for rainwear, hunting, fishing, or similar uses . . ." in TSUS Items 376.54 or 376.56, even though such coated outerwear is neither waterproof nor water resistant.

The June 1987 (Preliminary) Revision provides for the classification of "garments designed for rainwear" under subheadings 6201.92.15, 6201.93.30, 6202.92.15, 6202.93.45, 6203.43.35 and 6204.63.30. However, these proposed provisions are governed by "Additional U. S. Note 3" to Chapter 62, which limits classification thereunder to plastics-coated outerwear having "... a water resistance (see ASTM designations D 3600-81

and D 3781-79) such that, under a head pressure of 600 millimeters, not more than 1.0 gram of water penetrates after two minutes when tested in accordance with AATCC Test Method 35-1980. ...".[1]

The above-cited subheadings and U. S. Note were not contained in the October, 1986 Conversion of the TSUS into the Harmonized System, Revised. These proposed subheadings were apparently, and correctly, inserted as a result of the January 13, 1987 submission filed on behalf of another importer in response to the Office of the U.S. Trade Representative's public invitation for comments. In that submission (Exhibit 1, copy enclosed), it was pointed out that headings 6113.00.00 and 6210.00.00, the then proposed successor provisions to Items 376.54 and 376.56, TSUS, would exclude from classification thereunder coated outerwear in which the coating could not be seen with the naked eye.

While the addition of the six new subheadings in the June 1987 (Preliminary) Revision has properly eliminated the requirement that the coating for rainwear be visible by ocular inspection, it is respectfully submitted that "Additional U.S. Note 3" incorrectly adds a water resistance requirement that does not exist under present tariff law and which has, in fact, been specifically rejected by the United States Court of International Trade. Under current law, garments need only be water repellent, as opposed to water resistant (waterproof), in order to be properly classifiable as rainwear, etc., in Items 376.54 and 376.56, TSUS. If adopted in its present form, proposed "Additional U. S. Note 3" to Chapter 62 would significantly disrupt current tariff treatment and, of equal importance, may result in claims by our trading partners for compensation under the GATT Rules.

DISCUSSION

The coated outerwear with which we are concerned is presently classifiable under the provisions for "garments designed for rainwear, hunting, fishing, or similar uses," which are coated or filled, as set forth in Items 376.54 and 376.56 of the Tariff Schedules. The pertinent statutory provisions of the TSUS read as follows:

Schedule 3, Part 4, Subpart C, Headnote 2(a)

> 2. For the purposes of the tariff schedules--
>
> (a) the term "coated or filled," as used with reference to textile fabrics and other textile articles means that any such fabric or other article has been coated or -

---

[1]. It appears that the inclusion of ASTM designation D 3781-79 relating to "Standard Performance Specification For Men's and Boys' Knitted Rainwear and All-Purpose Water-Repellent Coat Fabrics" is unnecessary inasmuch as we are unaware of any significant trade in knitted plastics-coated outerwear. In any event, its inclusion in the Chapter 62 "Additional U.S. Note 3" is incorrect since that Chapter's scope is limited strictly to woven garments.

If, contrary to our understanding, there exists a significant volume of trade in knitted coated outerwear, then provisions similar to those proposed in Chapter 62 and an "Additional U.S. Note" would have to be included in Chapter 61 which covers knitted garments. It is only in Chapter 61 that reference to ASTM designation D 3781-79 would be appropriate.

> filled (whether or not impregnated) with gums, starches, pastes, clays, plastics material, rubber, flock, or other substances, so as to visibly and significantly affect the surface or surfaces thereof otherwise than by change in color, whether or not the color has been changed thereby;

Schedule 3, Part 6, Subpart D

> Garments designed for rainwear, hunting, fishing, or similar uses, wholly or almost wholly of fabrics which are coated or filled or laminated, with rubber or plastics, which (after applying headnote 5 of schedule 3) are regarded as textile materials:

376.54	Of cotton.....	6.6% ad valorem
376.56	Other.....	7.6% ad valorem

To be classifiable under Items 376.54 and 376.56, TSUS, imported outerwear need only be "designed for rainwear, hunting, fishing, or similar uses." Izod Outerwear, Div. General Mills, Inc. v. The United States, 9 C.I.T. 309, Slip Op. 85-72 (1985). In Izod, supra, the court expressly held that coated outerwear need not meet the stringent test of waterproofness but, rather, the less stringent standard of water repellency. In so holding, the Court relied on the decision in Pacific Trail Sportswear v. United States, 5 C.I.T. 206, Slip op. 83-45 (1983), wherein Chief Judge Re stated (5 C.I.T. at 211):

> What is required by item 376.56 is that the garment be " designed for rainwear, hunting, fishing, or similar uses." This requirement necessitates an analysis as to whether or not the coating on the fabric "visibly and significantly" affects the garment's surface rendering it water repellant rather than waterproof. See H. Rosenthal and Kaplan Products, supra. Thus, as aptly stated by the court in A.N. Deringer:
>
> > The provision is * * * not limited to garments which afford protection against rain but includes wearing apparel used in outdoor sports activities, such as hunting or fishing, which may be carried on in inclement weather or in or upon water, or where protection from moisture or dampness is desirable. ...

In light of the foregoing, it is clearly incorrect to impose a "water resistance" requirement in "Additional U.S. Note 3" for purposes of classification under the proposed rainwear provisions.

Our review of the referenced ASTM designations and AATCC Test Method as well as discussions with the Chairman of the ASTM Committee make clear that the June 1987 (Preliminary) Revision adopts the most stringent hydrophobic test available. Specifically, the cited ASTM designations provide for two types of characteristics - water resistance and water repellency. The first characteristic, entitled "Water Resistance (Rain Test)" is analogous to waterproofness and designed to gauge resistance to penetration by water. As specified therein, the test for this characteristic is required to be conducted in accordance with

characteristic is required to be conducted in accordance with AATCC Test Method 35-1980 and consists of subjecting the fabric to water under pressure for a specified period of time (head pressure of 600mm, or 2 feet, for two minutes).

The second test in the cited ASTM designations, entitled either "Water Repellency (Spray Test)" or "Resistance to Wetting (Spray Test)", is designed to ascertain a fabric's resistance to wetting and is required to be conducted in accordance with AATCC Test Method 22-1980.

It is clear that the Water Resistance test proposed in the June 1987 (Preliminary) Revision amounts to the adoption of a standard expressly rejected by the Court in Izod, Pacific Trail and A.N. Deringer, Inc. v. United States, 66 Cust. Ct. 378, C.D. 4218 (1971) (cited in Pacific Trail).

In order to provide for an appropriate conversion which does not disrupt current tariff treatment and is in conformity with present tariff classification law and practice, we respectfully submit that "Additional U.S. Note 3" should be revised to read as follows:

> 3. Garments classifiable in subheadings 6201.92.15, 6201.93.30, 6202.92.15, 6202.93.45, 6203.43.35 and 6204.63.30 must have a water repellency equal to the Specification Requirements contained in Table 1 of ASTM designation D 3600-81 when tested in accordance with AATCC Test Method 22-1980. This water repellency must be the result of a rubber or plastics application to the outer shell, lining or inner lining. These subheadings do not include garments classifiable in headings 6113 or 6210.

For your reference, we have enclosed copies of the cited ASTM designations and AATCC Test Methods.

After having reviewed the foregoing, we would appreciate the opportunity to provide any additional information which you deem necessary.

The Committee's attention to this matter is greatly appreciated.

Respectfully submitted,

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By: John F. Galvin

COPY

EXHIBIT 1

BY HAND

Mr. Christopher Marcich
Director, Office of Tariff Affairs
Office of the U.S. Trade Representative
600 Seventh Street, N.W., Room 509
Washington, D. C. 20436

Re: Conversion of the TSUS to the Harmonized System; Coated Outerwear

Dear Mr. Marcich:

This submission is made on behalf of Voyager International, Inc., 51 University Street, Suite 204, Seattle, Washington, 98101, in response to the invitation for public comments published at 51 Fed. Reg. 43262 (December 1, 1986). Voyager is a United States company and sole domestic sales representative of Odessey International Ltd., a Hong Kong manufacturer of coated wearing apparel and sleeping bags.

After a review of the proposed conversion of the Tariff Schedules of the United States to the language of the Harmonized Code (October, 1986 Conversion of the TSUS into the Harmonized System, Revised), we believe that the conversion may well result in the improper classification of most, if not all, plastics-coated outerwear presently classifiable under Tariff Items 376.54 and 376.56, TSUS.

COATED OUTERWEAR

Under current tariff treatment, imported outerwear having a transparent plastics coating is eligible for classification as garments designed for rainwear, hunting, fishing, or similar uses in TSUS Items 376.54 or 376.56, notwithstanding the fact that the coating is not visible by ocular inspection.

As proposed, the converted TSUS provisions would provide for plastic coated garments designed for rainwear, hunting, fishing, or similar uses under the following headings:

6113.00.00	Garments, made up of knitted or crocheted fabrics of heading 5903, 5906 or 5907
6210.00.00	Garments, made up of fabrics of heading 5602, 5603, 5903, 5906 or 5907

The converted TSUS provisions would, by operation of the headnotes to the chapter headings referenced therein,[1] preclude from classification thereunder coated outerwear in which the coating or covering "cannot be seen with the naked eye." As will be discussed below, it is respectfully submitted that this restriction on classification under the proposed successor provisions to Items 376.54 and 376.56, TSUS, would significantly disrupt current tariff treatment.

DISCUSSION

The merchandise the subject of the instant submission is presently classifiable under the provisions for garments designed for rainwear, hunting, fishing, or similar uses, which are coated or filled as set forth in Items 376.54 or 376.56 of the Tariff Schedules of the United States. The pertinent statutory provisions of the TSUS read as follows:

> Schedule 3, Part 4, Subpart C, Headnote 2(a)
>
> 2. For the purposes of the tariff schedules—
>
> (a) the term "coated or filled," as used with reference to textile fabrics and other textile articles, means that any such fabric or other article has been coated or filled (whether or not impregnated) with gums, starches, pastes, clays, plastics materials, rubber, flock, or other substances, so as to visibly and significantly affect the surface or sufaces thereof otherwise than by change in color, whether or not the color has been changed thereby;
>
> Schedule 3, Part 6, Subpart D
>
> Garments designed for rainwear, hunting, fishing, or similar uses, wholly or almost wholly of fabrics which are coated or filled or laminated, with rubber or plastics, which (after applying headnote 5 of schedule 3) are regarded as textile materials:

376.54	Of cotton	6.6% ad val.
376.56	Other	7.6% ad val.

To be classifiable under the provisions contained in Items 376.54 or 376.56, TSUS, imported outerwear must be "coated or filled" within the definition contained in Headnote 2(a) to Subpart C of Part 4, Schedule 3. Pertinent to the present discussion is the decision of the United States Customs Court in H. Rosenthal Co. v. United States, 81 Cust. Ct. 77, C.D. 4769, 460 F. Supp. 1246 (1978), aff'd, 67 CCPA 8, C.A.D. 1236, 609 F.2d 999 (1979), wherein the Court expressly held (81 Cust. Ct. at 77):

> Headnote 2(a) in Schedule 3, Part 4, Subpart C, which defines the term "coated" relates to a coating which visibly and significantly affects the surface or surfaces of the material. Such definition does not require the coating to be visible by ocular inspection *** [emphasis supplied]

The Court of Customs and Patent Appeals expressly affirmed the lower court's finding that Headnote 2(a), supra, does not require that the fabric coating be per se visible to the unaided eye but only that the fabric surface be visibly affected thereby, stating (67 CCPA at 10):

> Headnote 2(a) defines "coated" as treatment of the fabric which "visibly and significantly affect[s] the surface or surfaces thereof otherwise than by change in color." That definition is sufficiently clear and unambiguous to obviate resort to legislative history in a search for congressional intent. The government points to no ambiguity in the statutory language per se, but asserts that legislative history shows a congressional intent that the headnote have a meaning different from that of its plain language. ***
>
> The government's reliance on a portion of the **Explanatory Notes to the Brussels Nomenclature** is misplaced. The portion relied on, having been drafted after enactment of the Tariff Schedules was not part of the legislative history of the headnote. Further the headnote language differs from that of the **Brussels Nomenclature**. See **F. L. Smith & Co. v. United States**, 56 CCPA 77, C.A.D. 958, 409 F.2d 1369 (1969).

1. Headings 5602, 5603, 5903, 5906 and 5907.

In conclusion, the Court expressly affirmed Judge Ford's finding that the legislative intendment underlying the definition of the term "coated or filled" in Headnote 2(a), supra, does not require that the coating be visible by ocular inspection but only that the surface or surfaces of the fabric be visibly and substantially affected by the coating. In Rosenthal, supra, the Court had found that the transparent plastics coating substantially affected the garment fabric by rendering it hydrophobic while visibly affecting the surface of the material by rendering it stiffer in appearance.

The holding enunciated in Rosenthal was expressly adopted by the Customs Service in Treasury Decision 81-219 which further refined the test expounded by the Court. After paraphrasing the Customs Court's decision that it is the **effect imparted** by the coating material, and not the material itself, which must be visible, Headquarters went on to state that Customs will consider the surface of a fabric to be "visibly affected" by a coating or filling if (1) the coating or filling material can be separately distinguished from the fabric by the naked eye; (2) the coating or filling imparts a shine, luster, or glossy appearance, or a dull appearance, that is noticeable by a casual examination; or (3) the coating or filling material has caused the fabric to have a pronounced (obvious) appearance of stiffness.

Pursuant to the foregoing, it is clear that the proposed requirement that the plastic coating or covering be visible to the naked eye for classification under the proposed successor provisions to items 376.54 and 376.56, TSUS, is contrary to the current tariff treatment afforded imported apparel presently classifiable thereunder. In order to provide for an appropriate conversion which does not disrupt current tariff treatment, we request that each of the following two additional headings be inserted immediately after present proposed headings 6113.00.00 and 6210.00.00:

6114		Garments designed for rainwear, hunting, fishing, or similar uses, made up of knitted or crocheted fabrics which are coated or filled or laminated with rubber or plastics so as to visibly and significantly affect the surface or surfaces of such fabric otherwise than by change in color, whether or not the color has been changed thereby:	
6114.10		Of cotton	6.6%
		Coats and jackets:	
	10	Men's or boys'	doz. + kg.
	20	Women's or girls'	doz. + kg.
6114.20		Other:	
		Coats and jackets without full frontal openings:	
	10	Men's or boys'	doz. + kg.
	20	Women's or girls'	doz. + kg.
		Trousers, breeches and shorts:	
	30	Men's or boys'	doz. + kg.
	40	Women's or girls'	doz. + kg.
	50	Other	doz. + kg.
6114.30		Other	7.6%
		Coats and jackets:	
	10	Men's or boys'	doz. + kg.
	20	Women's or girls'	doz.+ kg.
		Trousers, breeches and shorts:	
	30	Men's or boys'	doz. + kg.
	40	Women's or girls'	doz. + kg.
		Other:	
		Coats and jackets without full frontal openings:	
	50	Men's or boys'	doz. + kg.
	60	Women's or girls'	doz. + kg.
	70	Other	doz. + kg.

6210		Garments designed for rainwear, hunting, fishing, or similar uses, made up of fabrics, not knitted or crocheted, which are coated or filled or laminated with rubber or plastics so as to visibly and significantly affect the surface or surfaces of such fabric otherwise than by change in color, whether or not the color has been changed thereby:	
6210.10		Of cotton	6.6%
		Coats and jackets:	
	10	Men's or boys'	doz. v kg.
	20	Women's or girls'	doz. v kg.
6210.20		Other:	
		Coats and jackets without full frontal openings:	
	10	Men's or boys'	doz. v kg.
	20	Women's or girls'	doz. v kg.
		Trousers, breeches and shorts:	
	30	Men's or boys'	doz. v kg.
	40	Women's or girls'	doz. v kg.
	50	Other	doz. v kg.
6210.30		Other	7.9%
		Coats and jackets:	
	10	Men's or boys'	doz. v kg.
	20	Women's or girls'	doz. v kg.
		Trousers, breeches and shorts:	
	30	Men's or boys'	doz. v kg.
	40	Women's or girls'	doz. v kg.
		Other:	
		Coats and jackets without full frontal openings:	
	50	Men's or boys'	doz. v kg.
	60	Women's or girls'	doz. v kg.
	70	Other	doz. v kg.

If the integrity of the current chapter headings is paramount in drafting the proposed conversion, it is respectfully submitted that, in the alternative, the proposed subheadings enumerated in Appendix "A" attached hereto be modified to read as follows:

(GARMENT)

Of [ ]:

00	Designed for rainwear, hunting, fishing, or similar uses and coated, filled, or laminated with rubber or plastics so as to visibly and significantly affect the surface or surfaces of the fabric otherwise than by change in color, whether or not the color has been changed thereby	6.6% or 7.6%
10	Men's	doz. v kg.
20	Boys'	doz. v kg.

As an example for your reference, we are enclosing a copy of Heading 6101 as modified by our proposed subheading language (Appendix "B").

It is also requested that the converted TSUS provide, in accordance with present tariff treatment, that the quota categories and statistical reporting requirements specified in present Tariff Items 376.54 and 376.56 remain the same in the additional headings proposed herein.

Your attention and cooperation in this matter is greatly appreciated.

Respectfully submitted,

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APPENDIX "A"

CHAPTER 61

CHAPTER SUBHEADINGS:

6101.10
6101.20
6101.30
6101.90

6102.10
6102.20
6102.30
6102.90

6103.21
6103.22
6103.23
6103.29
6103.41
6103.42
6103.43
6103.49

6104.21
6104.22
6104.23
6104.29
6104.61
6104.62
6104.63
6104.69

6110.10
6110.20
6110.30
6110.90

6111.10
6111.20
6111.30
6111.90

6112.11
6112.12
6112.19
6112.20
6114.10
6114.20
6114.30
6114.90

6116.10
6117.80
6117.90

CHAPTER 62

CHAPTER SUBHEADINGS:

6201.11
6201.12
6201.13
6201.19
6201.91
6201.92
6201.93
6201.99

6202.11
6202.12
6202.13
6202.19
6202.91
6202.92
6202.93
6202.99

6203.21
6203.22
6203.23
6203.29
6203.41
6203.42
6203.43
6203.49

6204.21
6204.22
6204.23
6204.29
6204.61
6204.62
6204.63
6204.69

6209.10
6209.20
6209.30
6209.90

6211.20
6211.31
6211.32
6211.33
6211.39
6211.41
6211.42
6211.43
6211.49

6216.00
6217.10
6217.90

Appendix "B"

Heading	Stat. Suffix	Article Description	Units of Quantity	Rates of Duty		
				General	Special	2
6101		Men's or boys' overcoats, carcoats, capes, cloaks, anoraks (including ski-jackets), wind-breakers and similar articles, knitted or crocheted, other than those of heading 6103:				
6101.10.00	00	Of wool or fine animal hair	doz....v kg	77.2¢/kg + 20%		77.2¢/kg + 34.5%
6101.10.10	00	Designed for rainwear, hunting, fishing, or similar uses and coated, filled, or laminated with rubber or plastics so as to visibly and significantly affect the surface or surfaces of the fabric otherwise than by change in color, whether or not the color has been changed thereby		7.6%		
	10	Men's	doz...v kg			
	20	Boys'	doz...v kg			
6101.10.20	00	Other		77.2¢/kg+ 20%		
	10	Men's	doz...v kg			
	20	Boys'	doz...v kg			
6101.20		Of cotton:				
6101.20.10	00	Designed for rainwear, hunting, fishing, or similar uses and coated, filled, or laminated with rubber or plastics so as to visibly and significantly affect the surface or surfaces of the fabric otherwise than by change in color, whether or not the color has been changed thereby		6.6%		
	10	Men's	doz...v kg			
	20	Boys'	doz...v kg			
6101.20.20	00	Other		16.9%		
	10	Men's	doz...v kg			
	20	Boys'	doz...v kg			
6101.30		Of man-made fibers:				
6101.30.10	00	Containing 25 percent or more by weight of leather	doz....v kg	8%		35%
6101.30.20	00	Designed for rainwear, hunting, fishing, or similar uses and coated, filled, or laminated with rubber or plastics so as to visibly and significantly affect the surface or surfaces of the fabric otherwise than by change in color, whether or not the color has been changed thereby		7.6%		
	10	Men's	doz...v kg			
	20	Boys'	doz...v kg			
6101.30.30		Other		30%		
	10	Men's	doz...v kg			
	20	Boys'	doz...v kg			
6101.90.00	00	Of other textile materials	doz....v kg	8.1%		43%
6101.90.10	00	Designed for rainwear, hunting, fishing, or similar uses and coated, filled, or laminated with rubber or plastics so as to visibly and significantly affect the surface or surfaces of the fabric otherwise than by change in color, whether or not the color has been changed thereby		7.6%		
	10	Men's	doz...v kg			
	20	Boys'	doz...v kg			
6101.90.20	00	Other		6.1%		
	10	Men's	doz...v kg			
	20	Boys'	doz...v kg			

Designation: D 3600 – 81

AMERICAN SOCIETY FOR TESTING AND MATERIALS
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If not listed in the current combined index, will appear in the next edition.

Standard Performance Specification for MEN'S AND BOYS' WOVEN RAINWEAR AND ALL-PURPOSE, WATER-REPELLENT COAT FABRICS[1]

This standard is issued under the fixed designation D 3600; the number immediately following the designation indicates the year of original adoption or, in the case of revision, the year of last revision. A number in parentheses indicates the year of last reapproval.

1. Scope

1.1 This performance specification covers men's and boys' woven rainwear and all-purpose water-repellent coat fabrics composed of any fiber or mixture of textile fibers.

1.2 This performance specification is not applicable to woven fabrics used for interlinings.

1.3 These requirements apply to the length and width directions for those properties where each fabric direction is pertinent.

2. Applicable Documents

2.1 *ASTM Standards:*

D 123 Definitions of Terms Relating to Textiles[2]

D 434 Test for Resistance to Slippage of Yarns in Woven Fabrics Using a Standard Seam[3]

D 1424 Test for Tear Resistance of Woven Fabrics by Falling-Pendulum (Elmendorf) Apparatus[3]

D 1682 Tests for Breaking Load and Elongation of Textile Fabrics[3]

D 1905 Test for Dimensional Changes in Laundering of Woven or Knitted Fabrics[4]

D 2262 Test for Tearing Strength of Woven Fabrics by the Tongue (Single Rip) Method (Constant Rate-of-Traverse Tensile Testing Machine)[3]

D 2724 Testing Bonded and Laminated Apparel Fabrics[3]

D 2905 Practice for Statements on Number of Specimens Required to Determine the Average Quality of Textiles[5]

2.2 *AATCC Methods:*[6]

-1974 Colorfastness to Crocking: AATCC Crockmeter Method

15-1976 Colorfastness to Perspiration

-1974 Colorfastness to Light: Carbon-Lamp, Continuous Light

76 Colorfastness to Light: Water-Xenon-Arc Lamp, Continuous

22-1974 Water Repellency: Spray Test

23-1975 Colorfastness to Burnt Gas Fumes

35-1974 Water Resistance: Rain Test

61-1975 Colorfastness to Washing, Domestic, and Laundering, Commercial: Accelerated

107-1975 Colorfastness to Water

116-1974 Colorfastness to Crocking: Rotary Vertical Crockmeter Method

119-1974 Color Change due to Flat Abrasion (Frosting): Screen Wire Method

124-1975 Appearance of Durable Press Fabrics after Repeated Home Launderings

132-1976 Colorfastness to Drycleaning

135-1973 Dimensional Changes in Automatic Home Laundering of Durable Press Woven or Knit Fabrics

Evaluation Procedure 1 Gray Scale for Color Change

Evaluation Procedure 2 Gray Scale for Staining

Evaluation Procedure 3 AATCC Chromatic Transference Scale

Note 1—The specific dated editions of the test methods that prevail in this document are referenced in Section 7 on Test Methods.

3. Terminology

3.1 *Definitions:*

3.1.1 *dimensional change in pressing and curing, n*—the change in dimensions undergone by a fabric subjected to pressing and curing during garment manufacture.

3.1.2 For definitions of other textile terms used in this specification, refer to the individual ASTM and AATCC test methods and to Definitions D 123.

3.2 *Description of Term:*

3.2.1 *pressing and curing, n*—this term takes into account a variety of industrial pressing and curing treatments used in garment production.

3.2.1.1 No standard method is available for reproducing on a laboratory level the results of industrial press or cure treatments, or both, used in the manufacture of woven outerwear garments.[4]

4. Uses and Significance

4.1 Upon mutual agreement between the purchaser and the seller, woven fabrics intended for this end use should meet all of the requirements listed in Table 1 of this specification.

4.2 It is recognized that for purposes of fashion or aesthetics the ultimate consumer of articles made from these fabrics may find acceptable fabrics that do not conform to all of the requirements in Table 1. Therefore, one or more of the requirements listed in Table 1 may be modified by mutual agreement between the purchaser and the seller.

4.2.1 In such cases, any references to the specification shall specify that: This fabric meets ASTM Specification D 3600 except for the following characteristic(s).

4.3 Where no prepurchase agreement has been reached between the purchaser and the seller, and in case of controversy, the requirements listed in Table 1 are intended to be used as a guide only. As noted in 4.2, ultimate consumer demands dictate varying performance parameters for any particular style of fabric.

4.4 The uses and significance of particular properties and test methods are discussed in the appropriate sections of the specified test methods.

5. Sampling

5.1 Tests shall be performed on the fabric as it will reach the consumer. Any "partially cured" or "post cured" fabrics should first be processed in accordance with the fabric manufacturer's instructions.

5.2 Unless otherwise agreed upon, as when specified in an applicable material specification, take the number of specimens directed in each of the applicable test methods.

5.2.1 If there has been no prior agreement and the test method does not specify the number of specimens, use the procedures in Practice D 2905 to determine the number of specimens, such that the user may expect at the 95 % probability level that the test result is no more than 5 % of the average above or below the true average (that is, a theoretical average from an infinite number of observations) when using a reliable estimate of variability of individual observations on similar materials in the user's laboratory under conditions of single-operator precision.

6. Specification Requirements

6.1 The properties of fabrics for men's and boys' woven rainwear and all-purpose, water-repellent coats shall conform to the specification requirements in Table 1.

7. Test Methods (Note 1)

7.1 *Breaking Strength (Load)*—Determine the dry breaking strength, in the standard atmosphere for testing textiles, as directed in the grab test procedure of Method D 1682-64 (1975), using a constant-rate-of-traverse (CRT) tensile testing machine with the speed of the pulling jaw at 12 ± 0.5 in. (305 ± 13 mm)/min.

Note 2—If preferred, the use of a constant-rate-of-extension (CRE) tensile testing machine is permitted. The crosshead speed should be agreed be-

[1] This specification is under the jurisdiction of ASTM Committee D-13 on Textiles, and is the direct responsibility of Subcommittee D13.56 on Performance Standards for Textile Fabrics.

Current edition approved Feb. 27, 1981. Published July 1981. Originally published as D 3600 – 76. Last previous edition D 3600 – 80.

[2] *Annual Book of ASTM Standards*, Parts 32 and 33.

[3] *Annual Book of ASTM Standards*, Part 32.

[4] Discontinued, see *1977 Annual Book of ASTM Standards*, Part 32.

[5] *AATCC Technical Manual*, available from the American Association of Textile Chemists and Colorists, P.O. Box 12215, Research Triangle Park, N.C. 27709

[6] The development of a standard method has been referred to Subcommittee D13.59 on Fabric Test Methods, General.

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...en the purchaser and the seller. There may be ...o overall correlation between the results obtained ...ith the CRT machine and with the CRE machine. ...Consequently, these two breaking loads can not be ...used interchangeably. In case of controversy, the ...CRT method shall prevail.

7.2 *Resistance to Yarn Slippage* – Determine the resistance to yarn slippage as directed in Method D 434-75.

7.3 *Tongue Tear Strength* – Determine the tear strength as directed in Method D 2262-71.

Note 3 – If preferred, use of Method D 1424-63 (1973) is permitted with existing requirements as given in this standard. There may be no overall correlation between the results obtained with the Elmendorf tear machine and with the Elmendorf machine. Consequently, these two tongue tear testers may not be used interchangeably. In case of controversy, Method D 2262-71 shall prevail.

7.4 *Dimensional Change:*

7.4.1 *Pressing and Curing During Manufacturing* – Mark specimen(s) as directed in Section 4.3.1 of AATCC Method 135-1973. Press and cure specimen(s) as agreed by the purchaser and the seller with respect to time, temperature, and the selection of dry heat or steam. Measure the specimen(s) and calculate the dimensional change as directed in Sections 6 and 7 of AATCC Method 135-1973 (see 9.2.1.).

7.4.2 *Laundering*—Determine the maximum dimensional change after 5 launderings as directed in the applicable procedure in AATCC Method 135-1973 or as agreed between the purchaser and seller.

Note 4—Launderable fabrics are expected to be drycleanable except where all or part of the fabric is not dryclenable and is so labeled. For example, the fabric could contain a functional finish soluble in the solvent, or the fiber could be degraded by the solvent, which would be the case with poly (vinyl chloride) fiber. "Dryclenable" goods are to be dryclecned only.

Note 5—Specimens prepared for 7.4.1 may be used for 7.4.2 and 7.4.3 as desired. When this is done, the dimensional change due to laundering or drycleaning is calculated using Eq 1:

$$\% \text{ dimensional change} = [(D_b - D_a)/D_a] \times 100 \quad (1)$$

where:

D_a = measurement after laundering or drycleaning, and

D_b = measurement after pressing and curing.

7.4.2.1 The wash conditions and drying procedure shall be as specified by the seller.

7.4.3 *Drycleaning* – Determine the maximum dimensional change after three drycleanings in accordance with Section 10.1.1 through 10.1.4 of Method D 2724-72 (Notes 4 and 5).

7.5 *Colorfastness:*

7.5.1 *Burnt Gas Fumes* – Determine the colorfastness to burnt gas fumes on the original fabric and after one laundering or one drycleaning as directed in AATCC Method 23-1975.

Note 6 – Washing conditions shall be the same as those used in 7.4.2.1. Drycleaning conditions shall be the same as those used in 7.4.3.

7.5.2 *Laundering* – Determine the colorfastness to laundering as directed in the applicable procedure of AATCC Method 61-1975. The test conditions shall be as specified by the seller (Note 4).

7.5.3 *Colorfastness to Drycleaning* – Determine colorfastness to drycleaning as directed in AATCC Method 132-1976 (Note 4).

7.5.4 *Colorfastness to Crocking* – Determine colorfastness to dry and wet crocking as directed in AATCC Method 8-1974 for solid shades and AATCC Method 116-1974 for prints or as agreed between the purchaser and the seller.

7.5.5 *Colorfastness to Water* – Determine colorfastness to water as directed in AATCC Method 107-1975.

7.5.6 *Colorfastness to Perspiration* – Determine colorfastness to perspiration as directed in AATCC Method 15-1976 (acid phase).

7.5.7 *Colorfastness to Light* – Determine colorfastness to light as directed in AATCC Method 16A-1974 or AATCC Method 16E-1976.

Note 7 – There is a distinct difference in spectral distribution between the xenon fading lamp apparatus and the enclosed carbon-arc (not enclosed carbon-arc). Consequently, these two fading lamp apparatus cannot be used interchangeably since there is no overall correlation between them. In case of controversy, AATCC Method 16E-1976 shall prevail.

7.5.8 *Color Change Due to Flat Abrasion (Frosting)* – Determine the color change due to flat abrasion (frosting) as directed in AATCC Method 119-1974.

7.6 *Water Resistance (Rain Test)* – Determine the water resistance (rain test) on the original fabric and after three launderings as in 7.4.2.1 or three drycleanings as in 7.4.3 as directed in AATCC Method 35-1974.

7.6.1 Fabrics shall be classified by conformance to the requirements given for the categories in Table 1.

7.7 *Resistance to Wetting (Spray Test)* – Determine the resistance to wetting (spray test) on the original fabric and after three launderings as in 7.4.2.1 or three drycleanings as in 7.4.3 as directed in AATCC Method 22-1974.

7.7.1 Determine the resistance to wetting of laundered or drycleaned fabrics after pressing as specified by the seller.

7.8 *Fabric Appearance* – Determine fabric appearance as directed in AATCC Method 124-1975 after laundering as specified in Section 7.4.2.1 for washable fabrics as specified in Section 7.4.3 for drycleanable fabrics (see Note 4).

7.8.1 For fabrics not intended for use in "Durable Press" garments, determine the fabric smoothness after pressing as specified in Section 12.1.4 of Method D 1905-73.

7.9 *Flammability* – The flammability requirements shall be as agreed between purchaser and seller, except when regulated by applicable Government mandatory standards.

TABLE 1 Specification Requirements

Note—More than one standard method can be used to measure these properties. These methods cannot be used interchangeably since there can be no overall correlation between them (see Notes 2, 3, and 7).

Characteristic	Requirements	Section
Breaking strength (load) (CRT Method)	60 lbf (270 N), min	7.1
Yarn slippage	25 lbf (111 N), min	7.2
Tear strength (Tongue Tear Method)	3 lbf (13 N), min	7.3
Dimensional Change:		
Pressing and ending	2 % max. in each direction	7.4.1
After 3 launderings	3 % max. in each direction	7.4.2
After 3 drycleanings	3 % max. in each direction	7.4.3
Colorfastness:		
Burnt gas fumes—2 cycles		7.5.1
Shade change, original fabric	Class 4[a] min	
Shade change after 1 laundering or 1 drycleaning	Class 4[a] min	
Laundering		7.5.2
Shade change	Class 4[a] min	
Staining	Class 3[a] min	
Drycleaning		7.5.3
Shade change	Class 4[a] min	
Crocking		7.5.4
Dry	Class 4[a] min	
Wet	Class 3[a] min	
Water		7.5.5
Shade change	Class 4[a] min	
Staining	Class 4[a] min	
Perspiration (acid phase)		7.5.6
Shade change	Class 4[a] min	
Staining	Class 4[a] min	
Light (40 AATCC SFU) (xenon arc)[b]	Class 4[a] min	7.5.7
Pressing	Class 4[a] min	7.5.8
Water Resistance:		7.6
Categories based on minimum time for 1-g weight increase at head pressures of:		
2 ft (600 mm)	30 s, shower	
2 ft (600 mm)	2 min, min	
3 ft (915 mm)	5 min, steam	
Water repellence		7.7
Smooth-surfaced fabric		
Original	90 min	
After 3 launderings or 3 drycleanings	70 min	
Rough-surfaced		
Original	80 min	
After 3 launderings or 3 drycleanings	70 min	
Fabric appearance	D.P. 3.5, min	7.8
Flammability	pass	7.9

[a] AATCC Gray Scale for Color Change.
[b] AATCC Gray Scale for Staining.
[c] AATCC Chromatic Transference Scale.
[d] Class in the colorfastness requirements is based on a 5-increment scale of 5 for negligible color change or color transfer to 1 for very severe color change or color transfer.

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This standard is subject to revision at any time by the responsible technical committee and must be reviewed every five years and if not revised, either reapproved or withdrawn. Your comments are invited either for revision of this standard or for additional standards and should be addressed to ASTM Headquarters. Your comments will receive careful consideration at a meeting of the responsible technical committee, which you may attend. If you feel that your comments have not received a fair hearing you should make your views known to the ASTM Committee on Standards, 1916 Race St., Philadelphia, Pa. 19103, which will schedule a further hearing regarding your comments. Failing satisfaction there, you may appeal to the ASTM Board of Directors.

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Standard Performance Specification for MEN'S AND BOYS' KNITTED RAINWEAR AND ALL-PURPOSE, WATER-REPELLENT COAT FABRICS[1]

This standard is issued under the fixed designation D 3781; the number immediately following the designation indicates the year of original adoption or, in the case of revision, the year of last revision. A number in parentheses indicates the year of last reapproval.

1. Scope

1.1 This performance specification covers men's and boys' knitted rainwear and all-purpose water-repellent coat fabrics composed of any textile fiber or mixture of textile fibers.

1.2 This performance specification is not applicable to knitted fabrics used for interlinings.

1.3 These requirements apply to the length and width directions for those properties where each fabric direction is pertinent.

2. Applicable Documents

2.1 *ASTM Standards:*

D 123 Definitions of Terms Relating to Textiles[2,3]

D 231 Testing and Tolerances for Knit Goods[3]

D 2594 Tests for Stretch Properties of Knitted Fabrics Having Low-Power[3]

D 2724 Testing Bonded and Laminated Apparel Fabrics[3]

D 2905 Practice for Statements on Number of Specimens Required to Determine the Average Quality of a Textile Material[3]

2.2 *AATCC Methods:*[4]

8-1974 Colorfastness to Crocking: AATCC Crockmeter Method

15-1976 Colorfastness to Perspiration

16A-1974 Colorfastness to Light: Carbon-Arc Lamp, Continuous Light

16E-1976 Colorfastness to Light: Water-Cooled Xenon-Arc Lamp, Continuous Light

22-1974 Water Repellency: Spray Test

23-1975 Colorfastness to Burnt Gas Fumes

35-1974 Water Resistance: Rain Test

61-1975 Colorfastness to Washing, Domestic, and Laundering, Commercial: Accelerated

96-1975 Dimensional Changes in Laundering of Woven and Knitted Textiles Except Wool

116-1974 Colorfastness to Crocking: Rotary Vertical Crockmeter Method

124-1975 Appearance of Durable Press Fabrics after Repeated Home Launderings

132-1976 Colorfastness to Drycleaning

135-1973 Dimensional Changes in Automatic Home Laundering of Durable Press Woven or Knit Fabrics

Evaluation Procedure 1 Gray Scale for Color Change

Evaluation Procedure 2 Gray Scale for Staining

Evaluation Procedure 3 AATCC Chromatic Transference Scale

NOTE 1—The specific dated editions of the ASTM test methods that prevail in this document are referenced in Section 7.

3. Terminology

3.1 *Definitions:*

3.1.1 *dimensional change, n—in pressing and finishing of textiles*, the change in dimensions of a fabric caused by pressing and finishing during garment manufacture.

[1] This specification is under the jurisdiction of ASTM Committee D-13 on Textiles and is the direct responsibility of Subcommittee D13.56 on Performance Standards for Textile Fabrics.

Current edition approved May 15, 1979. Published July 1979.

[2] *Annual Book of ASTM Standards*, Part 32.

[3] *Annual Book of ASTM Standards*, Part 33.

[4] Available from the American Association of Textile Chemists and Colorists, P.O. Box 12215, Research Triangle Park, N.C. 27709.

3.1.2 For definitions of other textile terms used in this specification, refer to the individual ASTM and AATCC test methods and to Definitions D 123.

3.2 *Description of Term*

3.2.1 *pressing and finishing*—this term takes into account all of the industrial pressing and finishing treatments used in garment production.

NOTE 2—No standard method is available for reproducing on a laboratory level the results of industrial press or finishing treatments, or both, used in the manufacture of woven outerwear garments.[5]

4. Uses and Significance

4.1 Knitted fabrics should meet all of the requirements in Table 1 to be suitable for use in the manufacture of rainwear and all-purpose, water-repellent coats for men and boys.

4.2 It is recognized that for purposes of fashion or aesthetics the ultimate consumer of articles made from these fabrics may find acceptable some fabrics that do not conform to all of the requirements in Table 1. For example, the fabric could be dyed in shades that do not meet the requirement in Table 1 for colorfastness to light, yet be acceptable to the ultimate consumer because the shade is fashionable. In such cases, one or more of the requirements may be modified by mutual agreement between the purchaser and the seller.

4.2.1 If any of the requirements in Table 1 are modified by mutual agreement between the purchaser and the seller, any reference to the specification shall specify that "this fabric meets ASTM Specification D 3781 except for the following characteristic(s)."

4.3 The uses and significance of particular properties are discussed in the appropriate sections of the specific methods.

5. Sampling

5.1 Tests shall be performed on the fabrics as it will reach the consumer. Any "partially cured" or "post cured" fabrics should first be processed in accordance with the fabric manufacturer's instructions.

5.2 Unless otherwise agreed upon, as when specified in an applicable material specification, take the number of specimens directed in each of the applicable test methods.

5.2.1 If there has been no prior agreement and the test method does not specify the number of specimens, use the procedures in Pra D 2905 to determine the number of specim such that the user may expect at the 9 probability level that the test result is no r than 5 % of the average above or below th average (that is the average that would obtained by applying this method to the e lot) when using a reliable estimate of variab of individual observations on similar mate in the user's laboratory under condition single-operator precision.

6. Specification Requirements

6.1 The properties of fabrics for men's boys' knitted rainwear and all-purpose, wa repellent coats shall conform to the specif tion requirements in Table 1.

7. Test Method (See Note 1)

7.1 *Bursting Strength*—Determine the bu ing strength, in the standard atmosphere testing textiles, as directed in Method D 231 (1975) using an approved type of constant-ra of-traverse machine equipped with a bursti attachment or an approved type of diaphra bursting tester as agreed between the purcha and the seller.

NOTE 3—There is no overall correlation betwe the results obtained with the CRT machine equipp with a bursting attachment and the diaphragm bur ing tester. Consequently, these two bursting test cannot be used interchangeably. In case of disput very, the CRT machine equipped with a bursti attachment method shall prevail.

NOTE 4—The precision of the ball burst meth using the CRT machine equipped with a bursti attachment and the precision of the diaphragm bur ing tester method are being established by Subcom mittee D13.59 on Fabric Test Methods, General. T methods are accordingly not recommended for a ceptance testing unless preceded by an interlabor tory check test in the laboratory of the purchaser a the laboratory of the seller using randomized rep cate specimens of the material to be evaluated.

7.2 *Dimensional Change:*

7.2.1 *Pressing and Finishing During Manufacturing*—Mark Specimen(s) as directed Section 4.3.1 of AATCC Method 135-197 Press and finish specimen(s) as agreed by t purchaser and the seller with respect to tim cycles, temperature, steam, vacuum, and me chanical pressure of the press head. Measu

[5] The development of a standard method has been referre to Subcommittee D13.59 on Fabric Test Methods, Genera

the specimen(s) and calculate the dimensional change as directed in Sections 6 and 7 of AATCC Method 135-1973 (see Note 2).

7.2.1.1 If no agreement has been made between the purchaser and the seller press the specimen(s) using a flat-bed steam press according to the cycle in 10.1.3.1 through 10.1.3.5 of Method D 2724-72.

7.2.2 *Laundering*—Determine the maximum dimensional change after five launderings as directed in the applicable procedure in AATCC Method 135-1973 (Notes 5 and 6).

7.2.2.1 The wash conditions and drying procedure shall be as specified by the seller.

7.2.3 *Drycleaning*—Determine the maximum dimensional change after three drycleanings in accordance with Section 10.1.1 through 10.1.4 of Method D 2724-72 (Notes 5 and 6).

7.2.4 *Growth*—Determine the growth of the fabric as directed in Method D 2594-72.

NOTE 5—Launderable fabrics are expected to be drycleanable except where all or part of the fabric is not drycleanable and is so labeled. For example, the fabric could contain a functional finish soluble in the solvent, or the fiber could be degraded by the solvent, which would be the case with poly(vinyl chloride) fiber. "Drycleanable" goods are to be drycleaned only.

NOTE 6—Specimens prepared for 7.2.1 may be used for 7.2.2 and 7.2.3 as desired. When this is done, subtract the pressing and finishing dimensional change from the total dimensional change to obtain that portion due to laundering or drycleaning. The dimensional change to pressing and finishing is determined on the fabric as it will reach the user. It is an additive to the dimensional change to laundering or drycleaning of the fabric as it will reach the consumer (see 3.1).

7.3 *Colorfastness:*

7.3.1 *Burnt Gas Fumes*—Determine the colorfastness to burnt gas fumes on the original fabric and after one laundering or one drycleaning as directed in AATCC Method 23-1975.

NOTE 7—Washing conditions shall be the same as those used in 7.2.2.1. Drycleaning conditions shall be the same as those used in 7.2.3.

7.3.2 *Laundering*—Determine the colorfastness to laundering as directed in the applicable procedure of AATCC Method 61-1975. The test conditions shall be as specified by the seller (see 5).

7.3.3 *Drycleaning*—Determine colorfastness to drycleaning as directed in AATCC Method 132-1976 (Note 5).

7.3.4 *Crocking*—Determine colorfastness to dry and wet crocking as directed in AATCC Method 8-1974 for solid shades and AATCC Method 116-1974 for prints or as agreed between the purchaser and the seller.

7.3.5 *Perspiration*—Determine colorfastness to perspiration as directed in AATCC Method 15-1976.

7.3.6 *Light*—Determine colorfastness to light as directed in AATCC Method 16A-1974 or AATCC Method 16E-1976.

NOTE 8—There is a distinct difference in spectral distribution between the xenon fading lamp apparatus and the enclosed carbon-arc (not sunshine-carbon arc). Consequently, these two fading lamp apparatus cannot be used interchangeably since there is no overall correlation between them. In case of controversy, AATCC Method 16E-1976 shall prevail.

7.4 *Water Resistance (Rain Test)*—Determine the water resistance (rain test) on the original fabric and after five launderings as in 7.2.2.1 or three drycleanings as in 7.2.3 as directed in AATCC Method 35-1974.

7.4.1 Fabrics shall be classified by conformance to the requirements given for the categories in Table 1.

NOTE 9—It is usual practice in manufacturing of rainwear and all-purpose, water-repellent garments to back knitted fabrics with a back coating or a lining. If garments made from knitted rainwear and all-purpose, water-repellent fabrics are to be lined, the test specimen may comprise (*a*) a single layer of the test fabric, or (*b*) a combination of the test fabric as the outer fabric and the lining fabric as the inner fabric as agreed between the purchaser and the seller.

7.5 *Water Repellency (Spray Test)*—Determine the resistance to wetting (spray test) on the original fabric and after five launderings as in 7.2.2.1 or three drycleanings as in 7.2.3 as directed in AATCC Method 22-1974.

7.5.1 Determine the resistance to wetting of laundered or drycleaned fabrics after pressing as specified by the seller.

7.6 *Fabric Appearance*—Determine the fabric appearance as directed in AATCC Method 124-1975 after laundering using the wash-and-wear cycle or the normal cycle as agreed between the purchaser and the seller as specified in 7.2.2.1 for washable fabrics or as specified in 7.2.3 for drycleanable fabrics (see Note 5).

7.6.1 For fabrics not intended for use in "durable press" garments, determine the fabric smoothness after pressing as specified in Section 5.12 of AATCC Method 96-1975.

7.6.1.1 The fabric smoothness DP (durable press) rating of such fabrics, and the DP rating of drycleaned fabrics, shall have decreased no more than ½ DP rating from that of the fabric before it is laundered or drycleaned.

7.7 *Flammability*—The flammability requirements shall be as agreed between purchaser and seller, except when regulated by applicable Government mandatory standards.

TABLE 1 Specification Requirements

NOTE—Class as a, b, c, and DP is based on a numerical scale of 5 for negligible or no color change, color transfer, or wrinkle to 1 for very severe color change, color transfer, or wrinkle. The numerical rating in Table 1 or a higher numerical rating is acceptable.

Characteristic	Requirements	Section
Bursting strength (load) (ball burst)	50 lbf (222 N) min	7.1
Dimensional change:		
Pressing and finishing	2 % max. in each direction	7.2.1
After five launderings	3 % max. in each direction	7.2.2
After three drycleanings	2 % max. in each direction	7.2.3
Growth	3 % max. in each direction	7.2.4
Colorfastness:		
Burnt gas fumes—2 cycles:		7.3.1
Shade change, original fabric	Class 4[A] min	
Shade change after one laundering or one drycleaning	Class 4[A] min	
Laundering:		7.3.2
Shade change	Class 4[A] min	
Staining	Class 3[B] min	
Drycleaning:		7.3.3
Shade change	Class 4[A] min	
Crocking:		7.3.4
Dry	Class 4[C] min	
Wet	Class 3[C] min	
Perspiration (acid phase):		7.3.5
Shade change	Class 4[A] min	
Staining	Class 3[B] min	
Light (40 AATCC FU) (xenon-arc)	Step 4[D] min	7.3.6
Water resistance (categories based on minimum time for 1 g weight increase at following head pressures):		7.4
2 ft (600 mm)	30 s (shower)	
2 ft (600 mm)	2 minutes (rain)	
3 ft (915 mm)	5 minutes (storm)	7.5
Water repellency:		
Smooth-surfaced fabrics:		
Original	90, min	
After five launderings or three drycleanings	70, min	
Rough-surfaced:		
Original	80, min	
After five launderings or three drycleanings	70, min	
Fabric appearance (see 7.6.1.1)	DP 3.5[D], min.	7.6
Flammability	pass	7.7

[A] AATCC Gray Scale for Color Change.
[B] AATCC Gray Scale for Staining.
[C] AATCC Chromatic Transference Scale.
[D] For durable press fabrics only.

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AATCC Test Method 22-1985 An American National Standard

Water Repellency: Spray Test

Developed in 1941 by AATCC Committee RA63; revised 1952; reaffirmed 1943, 1961, 1964, 1967, 1971, 1974, 1977, 1980, 1985.

1. Purpose and Scope

1.1 This test method is applicable to any textile fabric, which may or may not have been given a water-resistant or water-repellent finish. It measures the resistance of fabrics to wetting by water. It is especially suitable for measuring the water-repellent efficacy of finishes applied to fabrics, particularly plain woven fabrics. The portability and simplicity of the instrument, and the shortness and simplicity of the test procedure, make this method of test especially suitable for mill production control work. It is not intended, however, for use in predicting the probable rain penetration resistance of fabrics, since it does not measure penetration of water through the fabric.

1.2 The results obtained with this method of test depend primarily on the resistance to wetting or water repellency of the fibers and yarns in the fabric, and not upon the construction of the fabric.

2. Principle

2.1 Water sprayed against the taut surface of a test specimen under controlled conditions produces a wetted pattern whose size depends on the relative repellency of the fabric. Evaluation is accomplished by comparing the wetted pattern with pictures on a standard chart.

3. Terminology

3.1 **water repellency,** n.—*in textiles,* the characteristic of a fiber, yarn or fabric to resist wetting. (See also **water resistance.**)

4. Apparatus and Materials

4.1 AATCC Spray Tester (see 8.1).
4.2 Beaker
4.3 Water, distilled.

5. Test Specimens

5.1 One test specimen 17.8 x 17.8 cm (7 x 7 in.) is needed and should be conditioned at 65 ± 2% relative humidity and 21 ± 1C (70 ± 2F) for a minimum of four hours before testing.

6. Procedure

6.1 The test specimen, which has been conditioned as directed, is fastened securely in the 15.2 cm (6 in.) metal hoop so that it presents a smooth wrinkle-free surface. The hoop is then placed on the stand of the tester so that the fabric is uppermost in such a position that the center of the spray pattern coincides with the center of the hoop. In the case of twills, gabardines, piques or fabrics of similar ribbed construction, the hoop should be placed on the stand in such a way that the ribs are diagonal to the flow of water running off the fabric specimen.

6.2 Two hundred fifty mL of distilled water at 27 ± 1C (80 ± 2F) is poured into the funnel of the tester and allowed to spray onto the test specimen, which will take approximately 25-30 seconds. Upon completion of the spraying period, the hoop is taken by one edge and the opposite edge tapped smartly once against a solid object, with the fabric facing the object, then rotated 180° and tapped once more on the point previously held.

7. Evaluation

7.1 After tapping, the wet or spotted pattern is compared with the rating chart which is reproduced in Figure 1.

STANDARD SPRAY TEST
RATINGS
100 (ISO 5)
90 (ISO 4)
80 (ISO 3)
70 (ISO 2)
50 (ISO 1)
0
100 - NO STICKING OR WETTING OF UPPER SURFACE.
99 - SLIGHT RANDOM STICKING OR WETTING OF UPPER SURFACE.
80 - WETTING OF UPPER SURFACE AT SPRAY POINTS.
70 - PARTIAL WETTING OF WHOLE OF UPPER SURFACE.
50 - COMPLETE WETTING OF WHOLE OF UPPER SURFACE.
0 - COMPLETE WETTING OF WHOLE UPPER AND LOWER SURFACES.
COLORED WATER USED FOR PHOTOGRAPHIC EFFECT.

Fig. 1—Spray Test Rating Chart.

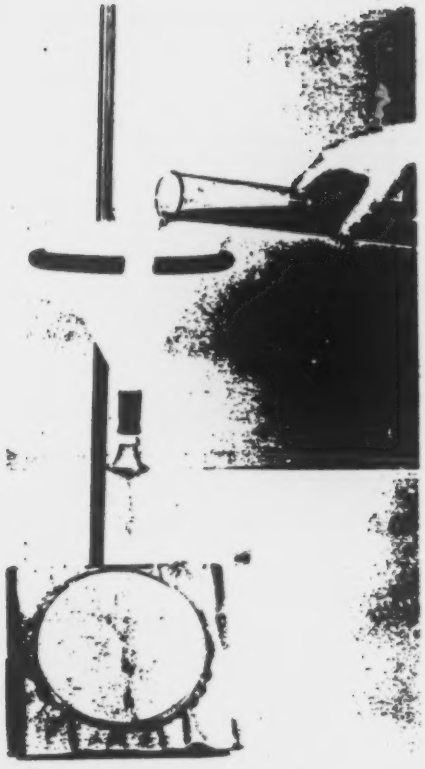


Fig. 2—AATCC Spray Tester.

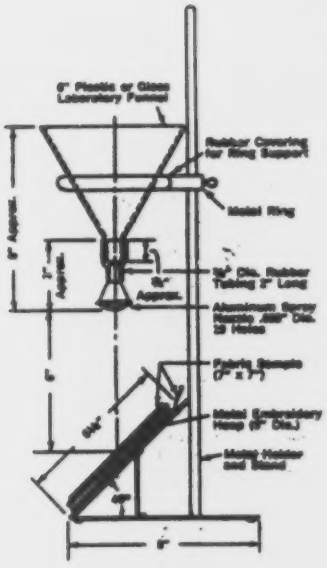


Fig. 2A—Details of AATCC Spray Tester.

The test specimen is assigned a rating corresponding to the nearest standard in the rating chart. Intermediate ratings should not be given. In rating loosely woven or porous fabrics, such as voile, any passage of water through the openings of the fabric is disregarded.

8. Notes

8.1 The complete AATCC Spray Tester (Fig. 2) is available from AATCC, P.O. Box 12215, Research Triangle Park NC 27709. Also available from AATCC are Spray Test Units each consisting of Hoop and Chart.

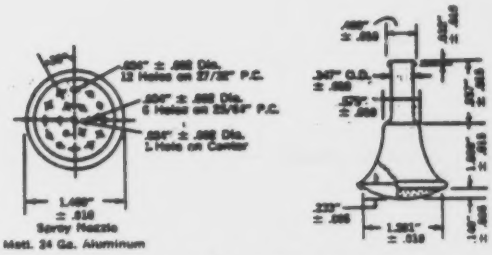


Fig. 3—Nozzle for Spray Tester.

AATCC Test Method 35-1985 — An American National Standard

Water Resistance: Rain Test

Developed in 1974 by AATCC Committee RA62; reaffirmed 1982, 1983, 1984, 1987, 1988, 1971, 1974, 1977, 1980, 1985; editorially revised 1983.

1. Purpose and Scope

1.1 This test method is applicable to any textile fabric, which may or may not have been given a water-resistant or water-repellent finish. It measures the resistance of fabrics to the penetration of water by impact, and thus can be used to predict the probable rain penetration resistance of fabrics. It is especially suitable for measuring the penetration resistance of garment fabrics. With the instrument, tests may be made at different intensities (see 8.1) of water impact to give a complete overall picture of the penetration resistance of a single fabric or a combination of fabrics.

1.2 The results obtained with this method of test depend on the water repellency of the fibers and yarns, and on the construction of the fabric.

2. Principle

2.1 A test specimen, backed by a weighed blotter, is sprayed with water for 5 minutes under controlled conditions. The blotter is then reweighed to determine the amount of water which has leaked through the specimen during the test.

3. Terminology

3.1 **water resistance,** n.—*of fabric*, the characteristic to resist wetting and penetration by water. (See also water repellency.)

4. Apparatus and Materials

4.1 AATCC Rain Tester (see 8.2).

4.2 White AATCC Textile Blotting Paper (see 8.3).

4.3 Water at 27 ± 1C (80 ± 2F).

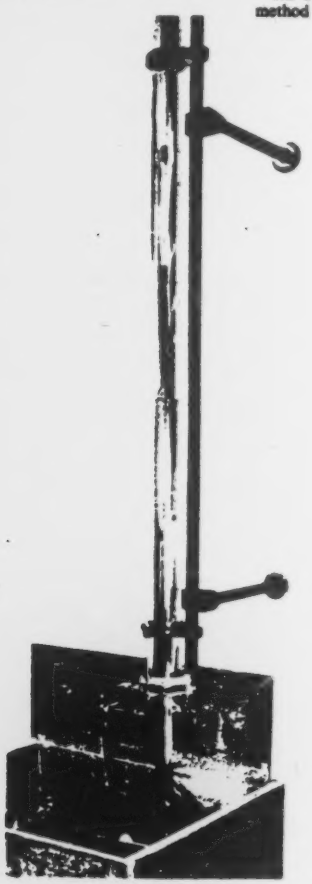


Fig. 1—Rain Tester, Complete Assembly.

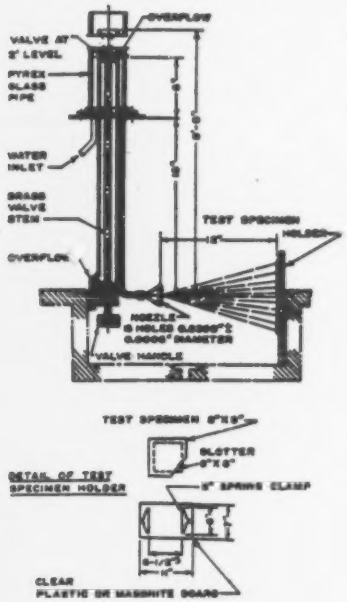


Fig. 2—Rain Tester, Structural Details.

4.4 Simple laboratory balance accurate to 0.1 gram.

5. Test Specimens

5.1 A convenient number of 20.3 x 20.3 cm (8 x 8 in.) test specimens are cut from the test fabric. The fabric or the specimens should be conditioned in an atmosphere of 65 ± 2% relative humidity and 21 ± 1C (70 ± 2F) for at least four hours before testing.

6. Procedure

6.1 The test specimen (see 8.4), backed by a 15.2 x 15.2 cm (6 x 6 in.) standard paper blotter weighed to the nearest 0.1 gram is clamped in the specimen holder and the assembly is mounted in a vertical, rigid support frame positioned to bring the specimen into the central portion of the spray at a distance of 30.5 cm (12 in.) from the face of the spray nozzle (see 8.5). A horizontal water spray is directed against the specimen and is allowed to continue for a period of five minutes. At the end of the spray period the blotter is carefully removed and quickly reweighed to the nearest 0.1 gram. The number of test specimens required will be governed largely by the degree of accuracy desired, but in all cases a minimum of three specimens from each fabric or treatment should be tested.

7. Evaluation

7.1 Water penetration as indicated by the increase in weight of the blotter during the five-minute test period is calculated, and the average for at least three test specimens is reported. Individual determinations or average values of over 5.0 grams may be simply reported to 5 + grams or > 5 grams.

7.2 In order to obtain a complete over-all picture of the penetration resistance of a fabric or fabric combination the average penetrations with different pressure heads on the nozzle should be obtained. The pressure head should be varied by one-foot increments in order to determine (a) the maximum head at which no penetration occurs, (b) the change in penetration with increasing head and (c) the minimum head required to cause "breakdown" or the penetration of more than five grams of water. At each pressure head a minimum of three specimens should be tested in order to obtain the average penetration for that head.

8. Notes

8.1 The intensities are produced and controlled by means of a column of water which may be adjusted to .6, .9, 1.2, 1.5, 1.8, 2.1 and 2.4 m (2, 3, 4, 5, 6, 7 and 8 ft) above the nozzle. This is done by means of a glass pressure column to which the nozzle is connected. The adjustment of the height of the water in the glass column is made by a simple setting of a valve at the lower end of the drain or overflow pipe which extends up through the center of the glass column. A filtering device between the pressure gauge and the glass column may be used to prevent clogging of the nozzle openings. It may be eliminated in localities where the water supply is relatively free from iron rust or other suspended matter. A pressure gauge on the supply line also is an accessory which usually can be eliminated in the interests of economy. The temperature of the supply water may be measured by means of a thermometer, but recent work has shown that it is more conveniently and accurately measured with a thermometer suspended in the glass pressure column or immersed in a beaker placed to catch water from the overflow.

8.2 For information relative to the purchase of the AATCC Rain Tester write to AATCC, P.O. Box 12215, Research Triangle Park NC 27709. Information relative to the principle of the instrument may be obtained by reference to the original article by Slowinske, G.A. and Pope, A.G., *American Dyestuff Reporter 36*, 108 (1947).

8.3 Blotters suitable for this test can be obtained from AATCC, P.O. Box 12215, Research Triangle Park NC 27709.

8.4 The test specimen may comprise (a) a single layer of the test fabric, (b) two layers of the test fabric, or (c) a combination of two different fabrics such as the outer fabric of a raincoat and the lining fabric.

8.5 A loose-fitting cap may be placed over the end of the spray nozzle to shut off the spray during the mounting or the removal of the specimen holder in the support frame.

15 October, 1987

The Honorable Lloyd Bentsen
Chairman, Senate Finance Committee
United States Senate
Washington, DC 20510

The Honorable Dan Rostenkowski
Chairman, House Ways and Means Committee
United States House of Representatives
Washington, DC 20515

Dear Sirs:

As 70 members of the international trade industry, we have gathered here at the Amfac Hotel in San Francisco to study the Harmonized System. We have found this system to be preferable to the current system used in the United States (the TSUSA) and we look forward to the successful implementation of the Harmonized System on 1 January, 1988.

The Harmonized System will enhance U.S. Customs revenue collecting ability. It will improve the American export position. It will greatly improve the efficiency and effectiveness of the world trade information system by providing better trade statistics, by facilitating the use of electronic transactions and by allowing more uniformity of forms at a national and international level.

We understand that the necessary legislation to implement this new tariff system on its target date of 1 January, 1988 has not yet been enacted. We, therefore, urge you in your capacity in the U.S. Congress to do all that you can to expedite passage of the necessary legislation to implement the Harmonized System on 1 January, 1988, even if it requires legislation separate from the Omnibus Trade bill where implementation authority is currently tied up.

Respectfully yours,

Name	Company	City + State
JR Henlon	Harper Peterson & Co	Portland, OR
Nancy Crow	Guilland Alpha Figueroa Co.	Brisbane, CA
David Moore	K. M. Williams + Assoc	Indpls, IN
[illegible]	Denton Cargo Services Inc.	San Francisco, CA
Glenn Mc	Gladish & Assoc.	San Francisco, CA
[illegible]	Consolidated Cold Service	So. S. F. CA
Midhiko Gill	Japan Freight Consol	SSF, CA
Tania Mc	JC Gordon & Co	SFCa
Sherri Linden	Sherri Linden CHB	San Carlos, Ca
Hilda Jamil	Western Overseas	S. S. F.
Linda Kim	DFSLP	Honolulu, HI
Antonio de Pelajon	Matson Navigation Corporation	San Francisco, CA.
Kelly Ford	Clear freight	S. San Francisco, Ca
Tracy Patea	HENRY BROKERAGE	BRISBANE, CA.
DAN TIMNEY	ACP INT'L	S. S F, CA
Gordy Allbrook	Apple Computer, Inc.	Cupertino, CA
Peter Parry	Hoyt Shipston Inc	San Francisco, Ca
[illegible]	TIC Brokers Inc.,	Burlingame, Ca.
[illegible]	Universal Transcontinental Corp.	S.S.F., Ca.

Name	Company	City - State
Suzanne Garcia	Westwood Shell	Hayward, Ca
[illegible]	HARPER ROBINSON	San Francisco Ca
Marilyn Cleary	Harper Robinson	San Francisco, Ca.
Ted Lewis	MSAS Cargo Intl.	Burlingame, Ca.
Ed Meyer	Nev-Cal Transportation	Reno, Nv
[illegible]	Pacific	[illegible]
[illegible]	Ted L. Rosen Co.	Burlingame, CA.
[illegible]	— " —	San Francisco Ca
[illegible]	SCHENKERS INTL.	SLC - UTAH
[illegible]	Schenker Int'l	SFO
[illegible]	Total Cargo Services	Portland Or
[illegible]	Gladish & Assoc.	Seattle, Wa.
Mary Sutka	Gladish & Assoc.	Seattle, WA
Robert Fabri	P.W. Bellingall Inc	S.F.
[illegible]	Hudson & Nagel, Inc.	So. S.F.
[illegible]	CARGO LINK INT'L	Salt Lake City, Utah
[illegible]	KUEHNE+NAGEL, INC.	SEATTLE, WA.
[illegible]	Hirschstadt Galante & Hyslin	San Francisco

Name	Company	City - State
Dee Katson	ESPRIT	San Francisco, CA
Jueleyn Callahan	Nisho Iwai Amer. Corp.	Portland, OR
Sherry Holt	MSAS Cargo Int'l.	Salt Lake City, UT
[illegible]	YUSEN	[illegible] CA -
[illegible]	SCHENKERS INT'L.	RENO, NV
Kurt Carter	CF Export Import, Inc.	San Francisco, CA
[illegible]	Japan Freight Consol.	San Francisco CA.
[illegible]	Radix Cor Intl	SO SF, Ca
[illegible]	H.E. Copperswith Inc	So. SFO, Ca
[illegible]	Schenkers	S.F. Ca.
[illegible]	W. J. Byrnes & Co.	Millbrae, CA

I certify this to be a true photocopy of original signatures, which were mailed to Senator Lloyd Bentsen.

[illegible]

STATEMENT OF

HOLIDAY JUICE, LTD.

I. INTRODUCTION

Holiday Juice Ltd., located in Windsor, Ontario, and its subsidiaries are producers and bottlers of a wide variety of juice products in both the wholesale and retail markets. In its product lines are orange, apple, pineapple and grape juices and drinks, both carbonated and natural, as well as an assortment of blended juice products. Holiday Juice Ltd. is a wholly owned subsidiary of John Labatt Ltd. Through a series of acquisitions, Holiday Juice Ltd. has established a strong presence in the United States. Included in the Holiday Juice Group (hereinafter referred to as Holiday Juice for convenience) is Boden Products, Inc. of Franklin Park, Illinois; The Everfresh Juice Company of Warren, Michigan, and The J.Z. Juice Company of Detroit, Michigan.

Holiday Juice believes that the adoption of the proposed United States Tariff Schedule in the Harmonized System Nomenclature as reflected by the July 1987 Draft published under the auspices of the Office of the United States Trade Representative merits careful consideration. A review of this draft reflects a variety of changes over a broad spectrum of products that will do a disservice to the international trade community without enhancing the stated objectives of the drafters in recommending the current version of the harmonized tariff system. Many of these changes might aptly be resolved by this committees careful consideration of certain language changes and resolved by means of a technical amendment that conforms the final tariff schedules to the intentions of the drafters.

In particular, Holiday Juice is concerned with a change in the method of assigning a quantity duty on mixed juice products under proposed Heading 2009.90.40 of 9.25 cents per liter. (Exhibit 1. Attached) Under Item 165.65 of the current Tariff Schedules of the United States, the equivalent provision for mixed juice products, a column one rate of duty is applied to mixed juices on the basis of the "highest rate applicable to any component juice..." (Exhibit 2. Attached) As will be discussed in detail below, the conversion effects a drastic and significant increase in duties on such products without regard to consistency in the interpretation of the nomenclature or the character of the specific product imported. By virtue of this submission, Holiday Juice seeks the restoration of the current column one rate of duty into the Harmonized System prior to the adoption of this legislation.

II. THE EXCESSIVE RATE CHANGE INCORPORATED INTO THE HARMONIZED SYSTEM FOR MIXED JUICE PRODUCTS IS WITHOUT SUPPORT OR JUSTIFICATION

Heading 2009.90.40 as now proposed, appeared in the administration's drafts at least as early as 1983. Conversion of the Tariff Schedules of the United States Annotated into the

Nomenclature Structure of the Harmonized System (ITC Publication 1400, June 1983, Report on Investigation No. 332-131 under Section 332 of the Tariff Act of 1930.) Annex II to that report identified the change here discussed (Annex II: Cross reference from present TSUSA No. to Converted TSUSA No., Page 95; reproduced in relevant part herein as Exhibit 3. attached) The change was thereafter preserved in succeeding drafts without apparent review.

The Submitting Report specified the guideline, relevant here, and followed by the commission in effecting its conversion:

> In converting the tariff into the format of the Harmonized System, the Commission was directed to observe the guidelines attached to the President's request, the first two of which provide the substantive basis for the conduct of the study. The guidelines were as follows:
>
> > 1) In converting the tariff schedules the commission should avoid, to the extent practicable and consonant with sound nomenclature principles, changes in rates of duty on individual products. However, the U.S. tariff structure should be simplified to the extent possible without rate changes significant for U.S. industry, workers, or trade. Within these guidelines, the commission should suggest modifications to the rate structure which, in the Commission's judgement, would alleviate administrative burdens on the Customs Service.... (ITC Publication 1400, Submitting Report, supra at page 30.)

A. The rate change incorporated in the proposed conversion will result in duty increases for individual products of up to 1,066%

When interpreting the guideline cited in a light most favorable to the administration, Holiday Juice is unable to adequately explain the vast increases in the dutiability of mixed juice products embodied in the conversion. For example, both the present TSUS and the conversion provide for the duty free importation of Apple and Pear Juices. [Item 165.15/headings 2009.70.00 and 2009.80.20] (See Exhibits 1. and 2.) However, the mixing of these same juices into a blended retail product would, we think anomalously, require the payment of duties at a rate of 35 cents per gallon under heading 2009.90.40.

More concretely, Holiday Juice currently engages in the production of a variety of blended products. The chart following reflects the likely tariff effects of the conversion:

Product	Current rate	Proposed Rate	Increase
Apple-Cherry	3 cents/gal.	35 cents/gal.	1,067 %
Apple-Apricot	3 cents/gal.	35 cents/gal.	1,067 %
Apple-Strawberry	3 cents/gal.	35 cents/gal.	1,067 %
Pineapple-Coconut	20 cents/gal.	35 cents/gal.	75 %
Apple-Cranberry	3 cents/gal.	35 cents/gal.	1,067 %
Raspberry-Grape	25 cents/gal.	35 cents/gal.	40 %
Grapefruit-Raspberry	3 cents/gal.	35 cents/gal.	1,067 %

In view of the analysis for the conversion provided by the International Trade Commission, it is the position of Holiday Juice that the change effected by the conversion is the result of an oversight properly corrected by way of a technical amendment by this committee.

B. Duty increases ranging from 40% to 1,067% were not contemplated by the conversion.

As suggested supra, the guideline provided the ITC first rejects changes in rates of duties on individual products, "...consonant with sound nomenclature principles" It is submitted that the rate change herein effected does not relate to nomenclature at all. Inspection of the conversion and comparison to the existing tariff schedules reflects little substantive change in the description of the articles covered by the language employed. To the extent that a nomenclature structures a system for naming and classifying products it is clear that the change in rates advocated by the conversion does not relate to nomenclature principles at all. Nor does Holiday Juice object to the nomenclature principles applied.

The rate change however, seems to stem from the apparent inadvertence in recognizing the tariff effects of altering the column one rate of duty by specifying a rate independent of the component juice products. Cosmetically, the change might be said to simplify the tariff structure and thereby reduce an administrative burden. (See Guideline, supra at p. 3) It is submitted that careful review of the current tariff treatment of these products will not support that conclusion.

The burden on Customs service personnel in analyzing any contemplated entry of mixed juice products is not substantially changed. It is under an obligation to identify the product

imported and to classify it accordingly. Inspection of a sample of a mixed juice product, places no particular burden on the relevant official to quantify the relative percentages of the mixture. Once it is established that the importation is comprehended by the tariff description "Juice", an exercise required under both of the systems, all that is left under the current TSUS is to identify the component juices, most probably as identified on the label, and to apply the highest rate applicable to any such component to the entire product. It is submitted that the calculation is largely mechanical and, therefore, that "simplification" does not and cannot account for the tariff increase under discussion.

This view is consistent with the ITC statements regarding the matter of simplification. At pages 33 to 38 of the Submitting Report, the Commission discusses pertinent areas for simplification at length. Particularly identified are well recognized product areas and concepts that became largely unmanageable for all but the exceedingly sophisticated. Included were: consolidations having roughly equivalent duty rates; modification of the chief use concept; elimination of the Chemical Appendix; reduction of the impact of the ornamented/unornamented distinction in the classification of wearing apparel; and, finally, the identification of watches and metallic ores as particular areas in need of simplification.

The simplifications above referenced involved, first, a rate change due to the alteration of basic principles of classification. Such changes in principles do not affect the classification of juice products. Secondly, the simplifications are based on the identification of particular problems indigenous to a particular section of the tariff schedules. Concomitant problems are, likewise, not found in the classification of juice products.

Even if the rate change were regarded, arguendo, as a "simplification" there has been no discernable attempt to reduce or assess the tariff impact of the change. At page 31 of the Submitting Report, cited supra, it is suggested, and Holiday Juice does not disagree, that "...one can appreciate that replication of every rate could not be anticipated. Rather, it was expected that the conversion process would yield, to some degree, incidental changes in rates of duty." (Emphasis added) Where as here, the resultant change often exceeds 1,000% of the current rate, Holiday Juice cannot agree that such change is merely incidental. We suggest further that increases of this size are susceptible to prima facie attack as affecting United States trade. Noteworthy is the ITC identified methodologies for effecting change in rates. Substantial care was taken to identify and apply those methods to reduce the substance of a rate change in a particular circumstance. (See Submitting Report, supra, at page 32-4) It is equally noteworthy that neither methodology was relevant to nor capable of application to the change effected in these circumstance. No TSUS provisions here involved were combined in order to convert to the Harmonized System.

III. CONCLUSION

In view of the foregoing, Holiday Juice respectfully seeks the restoration of the Column One rate of duty for mixed juice products as reflected in the current TSUS. Holiday Juice submits the following language for the consideration of this committee, for incorporation into the proposed legislation:

Heading/ Subheading	Article Description	Units of Quantity	Rate of Duty
2009.90	Mixtures of juices		
2009.90.40	Other	liters	highest rate applicable to any component juice

Adoption of this provision will obviate the anomaly of assessing duties at a higher rate for mixed juices than for any particular component juice. Moreover, the change herein advocated seems to better comport with the intent of the conversion. The guideline discussed herein at length, allows for a change in rates of duty only where sound nomenclature principles require or when simplification results. Neither proposition appears advanced by the rate change applied to mixed juice products. Moreover, even were simplification an issue, the extreme increases proposed are so significant that they are not subject to characterization as an "incidental change". To the contrary, they reflect a substantial burden to the Holiday Juice Group in the day to day operation of its business.

Your careful consideration of this comment is appreciated.

Respectfully submitted,

Edmund Maciorowski

PROPOSED UNITED STATES TARIFF SCHEDULE ANNOTATED

IV
20-9

Heading/ Subheading	Stat. Suf. & cd		Article Description	Units of Quantity	Rates of Duty 1 General	Special	2
2009			Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter:				
			Orange juice:				
2009.11.00			Frozen	.....	9.25¢/liter	Free (E)	18¢/liter
	20	0	In containers each holding less than 0.848 liter	liters			
	40	6	In containers each holding 0.946 liter or more but not more than 3.785 liters	liters			
	80	1	In containers of more than 3.785 liters	liters			
2009.19			Other:				
2009.19.20	00	2	Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degree)	liters..	5.3¢/liter	Free (E)	18¢/liter
2009.19.40	00	8	Other	liters..	9.25¢/liter	Free (E)	18¢/liter
2009.20			Grapefruit juice:				
2009.20.20	00	9	Not concentrated	liters..	5.3¢/liter	Free (E)	18¢/liter
2009.20.40			Concentrated	.....	9.25¢/liter	Free (E)	18¢/liter
	20	1	Frozen	liters			
	40	7	Other	liters			
2009.30			Juice of any other single citrus fruit:				
			Lime:				
2009.30.10			Unfit for beverage purposes	.....	2.76¢/kg	Free (E)	11¢/kg
	20	5	Not concentrated	kg v liters			
	40	1	Concentrated	kg v liters			
2009.30.20			Other	.....	2.6¢/liter	Free (E)	18¢/liter
	20	3	Not concentrated	liters			
	40	9	Concentrated	liters			
			Other:				
2009.30.40	00	3	Not concentrated	liters..	5.3¢/liter	Free (E)	18¢/liter
2009.30.60			Concentrated	.....	9.25¢/liter	Free (E)	18¢/liter
			Lemon juice:				
	20	4	Frozen	liters			
	40	0	Other	liters			
	60	5	Other	liters			
2009.40			Pineapple juice:				
2009.40.20	00	5	Not concentrated, or having a degree of concentration of not more than 3.5 degrees (as determined before correction to the nearest 0.5 degree)	liters..	5.3¢/liter	Free (E)	18¢/liter
2009.40.40			Other	.....	1.3¢/liter	Free (E)	18¢/liter
	20	7	Frozen	liters			
	40	3	Other	liters			
2009.50.00	00	6	Tomato juice	liters..	0.3¢/liter	Free (A,E)	4¢/liter
2009.60.00			Grape juice (including grape must)	.....	5.8¢/liter	Free (E)	25¢/liter
	20	0	Not concentrated	liters			
			Concentrated:				
	40	6	Frozen	liters			
	60	1	Other	liters			
2009.70.00	00	2	Apple juice	liters..	Free		1.3¢/liter
2009.80			Juice of any other single fruit or vegetable:				
			Fruit juice:				
2009.80.20	00	6	Pear juice	liters..	Free		1.3¢/liter
2009.80.40	00	2	Prune juice	liters..	1¢/liter	Free (E)	18¢/liter
2009.80.60	00	7	Other	liters..	0.8¢/liter	Free (A,E)	16¢/liter
2009.80.80	00	3	Vegetable juice	liters..	0.3¢/liter	Free (A,E)	4¢/liter
2009.90			Mixtures of juices:				
2009.90.20	00	4	Vegetable	liters..	0.3¢/liter	Free (A,E)	4¢/liter
2009.90.40	00	0	Other	liters..	9.25¢/liter	Free (E)	18¢/liter

Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty		
				1	Special	2
		3. For the purposes of this subpart -- (a) the term "gallon" in the "Rates of Duty" column of the provisions applicable to fruit juices means gallon of natural unconcentrated juice or gallon of reconstituted juice; (b) the term "reconstituted juice" means the product which can be obtained by mixing the imported concentrate with water in such proportion that the product will have a Brix value equal to that found by the Secretary of the Treasury from time to time to be the average Brix value of like natural unconcentrated juice in the trade and commerce of the United States; and (c) the term "Brix value" means the refractometric sucrose value of the juice, adjusted to compensate for the effect of any added sweetening materials, and thereafter corrected for acid. 4. In determining the number of gallons of reconstituted fruit juice which can be obtained from a concentrate, the degree of concentration shall be calculated on a volume basis to the nearest 0.5 degree, as determined by the ratio of the Brix value of the imported concentrated juice to that of the reconstituted juice, corrected for differences of specific gravity of the juices. Any juice having a degree of concentration of less than 1.5 (as determined before correction to the nearest 0.5 degree) shall be regarded as a natural unconcentrated juice. 5. In determining the degree of concentration of mixed fruit juices (item 165.65), the mixture shall be considered as being wholly of the component juice having the lowest Brix value.				
		Subpart A statistical headnote: 1. For the purposes of statistical reporting in this subpart, the term "gallon" in the "Units of Quantity" column means gallon of natural unconcentrated juice or gallon of reconstituted juice (as defined in headnote 3(b) above).				
		Fruit juices, including mixed fruit juices, concentrated or not concentrated, whether or not sweetened:				
		Not mixed and not containing over 1.0 percent of ethyl alcohol by volume:				
165.15	00	Apple or pear	Gal.	Free 1/		5c per gal. 1/
		Citrus fruit:				
165.25		Lime		10c per gal. 1/	Free (E) 1/ 3.2c per gal.(I)1/	70c per gal. 1/
	20	Not concentrated	Gal.			
	40	Concentrated	Gal.			
		Orange:				
165.27	00	Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degree)	Gal.	20c per gal. 1/	Free (E) 1/	70c per gal. 1/
165.29	00	Other	Gal.	35c per gal. 1/	Free (E) 1/	70c per gal. 1/

1/ Imports under this item may be subject to Federal Excise Tax (26 U.S.C. 5001 and 5041) as follows:
A) If containing distilled spirits, a tax of $12.50 per proof gallon and a proportionate tax at the like rate on all fractional parts of a proof gallon.
B) If containing wine, a tax of --
1) 17c per wine gallon on still wines containing not more than 14% of alcohol by volume;
2) 67c per wine gallon on still wines containing more than 14% and not exceeding 21% of alcohol by volume;
3) $2.25 per wine gallon on still wines containing more than 21% and not exceeding 24% of alcohol by volume;
4) $3.40 per wine gallon on champagne and other sparkling wines; and
5) $2.40 per wine gallon on artificially carbonated wines.

EXHIBIT 2

Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty		
				1	Special	2
		Fruit juices, including mixed fruit juices, etc. (con.):				
		Not mixed and not containing over 1.0 percent of ethyl alcohol by volume (con.):				
		Citrus fruit (con.):				
		Other:				
165.32	00	Not concentrated	Gal.	20c per gal. 1/	Free (E) 1/	70c per gal. 1/
165.36		Concentrated		35c per gal. 1/	Free (E) 1/	70c per gal. 1/
	50	Lemon	Gal.			
	80	Other	Gal.			
165.40		Grape		25c per gal. 1/	Free (E,I) 1/	$1 per gal. 1/
	20	Not concentrated	Gal.			
		Concentrated:				
	40	Frozen	Gal.			
	60	Not frozen	Gal.			
		Pineapple:				
165.44	00	Not concentrated, or having a degree of concentration of not more than 3.5 degrees (as determined before correction to the nearest 0.5 degree)	Gal.	20c per gal. 1/	Free (E) 1/ 6.4c per gal.(I)	70c per gal. 1/
165.46	00	Other	Gal.	5c per gal. 1/	Free (E,I) 1/	70c per gal. 1/
165.50	00	Prune	Gal.	3.8c per gal. 1/	Free (E,I) 1/	70c per gal. 1/
165.55	00	Other	Gal.	3c per gal. 1/	Free (A,E,I) 1/	70c per gal. 1/
165.65	00	Mixed, not containing over 1.0 percent of ethyl alcohol by volume	Gal.	The highest rate applicable to any component juice under the foregoing provisions 1/	Free (E,I) 1/	The highest rate applicable to any component juice under the foregoing provisions 1/
165.70	00	Mixed or not mixed, containing over 1.0 percent of ethyl alcohol by volume	Gal.	26c per gal. + $1.85 per proof gal. on the alcohol content 1/	Free (E,I) 1/	70c per gal. + $5 per proof gal. on the alcohol content 1/
		Subpart B. - Non-Alcoholic Beverages				
		Subpart B headnote:				
		1. The provisions of this subpart cover only products fit for use as beverages, and do not apply to any product containing 0.5 percent or more of ethyl alcohol by volume or to any product described in subpart A of this part.				
166.10	00	All mineral waters, natural, imitation, or artificial	Gal.	1.5c per gal.	Free (A,E,I)	10c per gal.
166.20	00	Ginger ale, ginger beer, lemonade, and soda water	Gal.	1c per gal.	Free (A,E,I)	15c per gal.
166.30	00	Vegetable juices, including mixed vegetable juices	Gal.	1c per gal.	Free (A,E,I)	15c per gal.
166.40		Beverages, not specially provided for		1c per gal.	Free (A,E,I)	15c per gal.
	20	Carbonated soft drinks	Gal.			
	40	Other	Gal.			

1/ Imports under this item may be subject to Federal Excise Tax (26 U.S.C. 5001 and 5041) as follows:

A) If containing distilled spirits, a tax of $12.50 per proof gallon and a proportionate tax at the like rate on all fractional parts of a proof gallon.

B) If containing wine, a tax of --
1) 17c per wine gallon on still wines containing not more than 14% of alcohol by volume;
2) 67c per wine gallon on still wines containing more than 14% and not exceeding 21% of alcohol by volume;
3) $2.25 per wine gallon on still wines containing more than 21% and not exceeding 24% of alcohol by volume;
4) $3.40 per wine gallon on champagne and other sparkling wines; and
5) $2.40 per wine gallon on artificially carbonated wines.

CROSS - REFERENCE FROM PRESENT TSUSA NO.
TO CONVERTED TSUSA NO.

PRESENT TSUSA NO.	POST-MTN (FINAL) RATES OF DUTY		IMPORTS IN $1,000 (1982)		CONVERTED TSUSA NO.	PERCENT ALLOCATION-PRESENT TO CONVERTED TSUSA NO.	CONVERTED RATES OF DUTY DIFFERENT THAN POST-MTN (FINAL) RATES		ALLOCATED IMPORTS AFFECTED BY RATE CHANGE IN $1,000	
	1	2	1	2			1	2	1	2
165.4020	gallon	gallon								
165.4040	25¢ per gallon	$1 per gallon	311	0	2009.60.0040	100				
165.4060	25¢ per gallon	$1 per gallon	1,081	0	2009.60.0040	100				
165.4400	20¢ per gallon	70¢ per gallon	8,944	0	2009.40.2000	100				
165.4600	05¢ per gallon	70¢ per gallon	17,497	0	2009.40.4000	100				
165.5000	03.8¢ per gallon	70¢ per gallon	924	0	2009.80.4000	100				
165.5500	03¢ per gallon	70¢ per gallon	8,144	0	2009.80.6000	100				
165.6500	various	various	1,285	95	2009.90.0000	100	9.25¢/1	18¢/1	1,285	95
165.7000	26¢ per gal + $1.85 per pf gal	70¢ per gallon + $5 per proof gallon	1	0	2204.30.0000	70				
					2206.00.9000	30	6.6¢/1	33¢/1	0	0
166.1000	01.5¢ per gallon	10¢ per gallon	26,278	32	2201.10.0000	100				
166.2000	01¢ per gallon	15¢ per gallon	883	0	2201.10.0000	5	.4¢/1	2.6¢/1	44	0
					2202.10.0030	90				
					2202.10.0060	5				
166.3000	01¢ per	15¢ per	390	0	2009.50.0000	40				

IFA International Footwear Association
47 West 34th Street, Suite 804
New York, New York 10001
(212) 714-2399 November 6, 1987

COMMENTS
THE INTERNATIONAL FOOTWEAR ASSOCIATION
SUBMITTED TO THE TRADE SUBCOMMITTEE, WAYS AND MEANS COMMITTEE
U.S. HOUSE OF REPRESENTATIVES
ABOUT
IMPLEMENTATION OF THE HARMONIZED SYSTEM

The International Footwear Association (IFA) has commented on the need for adoption of the Harmonized System (HS) at a hearing held by the Senate Finance Committee Subcommittee on Trade last April. Those comments detail the Association's position in favor of the Harmonized System. A copy follows this statement.

Rather than repeat our position in this submission, we want to address only the question of implementation.

There is no opposition to the Harmonized System. U.S. importers and exporters have already done reprogramming and training to convert to the H.S. Some are actually using the system for exports. The Customs Service and most customs brokers have spent the last four months in vigorous training programs and have been setting up new computer forms and systems so that they will be ready for implementation in 300 ports on January 1, 1988. The U.S. Trade Representative, the International Trade Commission and the Government Printing Office have published the proposed tariff schedules in the Harmonized System format so that the trade community would be as knowledgeable as possible. The Canada Free Trade Agreement is cast in the Harmonized System. The Committee for Implementation of Textile Agreements (CITA) has announced its intention of adopting an H.S. - based category system whether or not the U.S. implements the H.S. on January 1st.

In short, a great deal of time and money of thousands of businesses, government agencies and trade groups have been working toward implementation of the Harmonized System on January 1, 1988. All of our major trading partners, are implementing the Harmonized System on January 1, 1988.

Beginning January 1, 1988 the Harmonized System will be the international language of trade. It would be a terrible economic waste and a international embarassment if the United States were to fail to implement this commercially important and non-controversial program on January 1st.

The opening days of any large-scale change will be difficult for the participants, but much of the trade community and Customs are ready. The people who are not ready now, will not be ready on any opening day. Delay will not ease the transition.

We urge you to separate the Harmonized System from the Trade Bill and pass it into law as quickly as possible.

87-017 0 - 88 - 5

IFA International Footwear Association
47 West 34th Street, Suite 804
New York, New York 10001
(212) 714-2399

April 23, 1987

TESTIMONY
ON THE HARMONIZED SYSTEM
BEFORE THE TRADE SUBCOMMITTEE
COMMITTEE ON FINANCE
UNITED STATES SENATE
BY
THE INTERNATIONAL FOOTWEAR ASSOCIATION

I am Ted Rowland, Executive Director of the International Footwear Association, known as IFA. IFA represents U.S. companies which import completed footwear. At present we have forty-five corporate members responsible for perhaps 20% of all footwear imports into the U.S.

We appreciate this opportunity to appear before the Subcommittee. We support the Harmonized System in principle, and we urge its adoption on January 1, 1987.

Although we are critical of many aspects of the HS as it applies to footwear (Chapter 64), our testimony today is aimed at adoption, rather than objection. At the U.S. national level -- beyond the first six digits -- Chapter 64 retains all of the incredibly difficult concepts, all of the inordinately confusing and incomprehensible language and all of the protection of the present Tariff Schedules. Our efforts to end the costly burden of protection on U.S. consumers and industry will increase in future years, but the protection and our efforts against it have nothing to do with the Harmonized System.

In the case of Chapter 64, the HS goal of maintenance of duty rates, including those protective in nature, has been fulfilled. But the goal of simplification has been missed entirely. We hope to improve that in the future.

We support implementation of the HS despite our problems because the HS makes good sense, and because it will make the complex procedures of trade more efficient. We hope someday that its use will extend to other areas of trade, such as transportation and domestic classification of goods and production. Symbolically, the HS reinforces the concept of a single economic world. More than that, the international character of the HS underlines the fact that the United States is now one leader among several, one player among many in a very complex and very competitive world economy whose structure is changing rapidly.

Without trying to raise adoption of the HS to an undeserved level of importance, we want to point out, too, that we believe the U.S. has an obligation to the rest of the world to implement this program now, after all the years of negotiation, compromise and resolution. Further, at a time of real stress in the world trading system, adoption of the HS by most of the trading nations on earth will be a welcome and important sign of continuing international cooperation, compromise and dedication to an open trading system.

As a whole, there is no reason that we can think of to avoid or delay implementation of the Harmonized System. Since the HS is the result of international negotiations, and dependent upon acceptance in part of identical language and numerical designation by all participants, we urge a legislative process for adoption which will not permit amendment.

Lastly, we want to take this opportunity to address the remarkable role played by those at the International Trade Commission, the United States Customs Service and the Office of the United States Trade Representative who did the work, the negotiating, and the consensus-building which has produced this formidable document. This very small group of dedicated people, with little support and inadequate resources, kept the process open, transparent and moving, negotiating compromises among very competitive parties in the area of their most fundamental self-interest, here in the United States and in Geneva and Brussels. These people deserve a great deal of recognition.

Once again, thank you for permitting us to appear. Adoption of the Harmonized System is important as a symbol. It is worthwhile in the sense of procedural efficiency. It provides a basis for further rationalization and improvement. It is a singular achievement in a difficult time, and its adoption will fulfill a national obligation.

INTERNATIONAL HARDWOOD PRODUCTS ASSOCIATION P.O. BOX 1308 ALEXANDRIA, VIRGINIA 22313 (703) 836-6696
TWX: 710-832-0268 IMPORHARD UD FAX: (703) 836-6370

November 9, 1987

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102
Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Leonard:

I am writing on behalf of the members of the International Hardwood Products Association to urge that the conferees on H.R. 3 expand the provisions in Section 113 of the House bill and Section 937 of the Senate amendment, to amend current law to allow for fast-track implementation of the Harmonized System and to provide for direct implementation of the HS as part of H.R. 3.

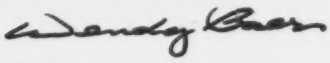
The International Hardwood Products Association is the international trade association representing importers and suppliers of tropical timber products from various regions of the world. The volume of products imported by our industry in 1986 was around $1 billion, and some 85% of all imported hardwood products are brought in each year by companies who participate in this association. The International Hardwood Products Association (IHPA) currently has an active roster of some 200 members and associates.

The implementation of the Harmonized System by the United States is no longer controversial. The adoption of the Harmonized Commodity Description and Coding System (HS) is needed to assist U.S. exports and imports and to improve the international trade operations of agriculture and industry. We believe there is a compelling need for the U.S. to implement the HS on January 1, 1988. The major industrial countries and many developing countries are going to implement the HS on that date. Should the United States fail to do so, we will have forfeited the opportunity to influence the beginning structure and operations of this key international system so central to the long run competitive interest of our exporters. We also believe the bill now adequately addresses the legal implications of the United States adoption of the Harmonized System and approval of the Harmonized System Convention by the United States.

Members of the International Hardwood Products Association firmly feel that timely action is vital to full and successful participation by the United States in this new international tariff classification system. The U.S. Customs Service and the Census Bureau must have sufficient lead time to have their statistical and reporting systems interface appropriately with those of the private sector on January 1, 1988, which is absolutely essential for statistical accuracy and continuity.

The members of the International Hardwood Products Association strongly urge that the conferees take what measures are necessary to ensure fast-track legislation for implementation of the Harmonized System in the United States on January 1, 1988.

Respectfully submitted,



Wendy Baer
Executive Vice President

STATEMENT OF

J.G. DURAND & CIE

J.G. DURAND INTERNATIONAL

These comments are submitted on behalf of J. G. Durand & Cie. of France, and J. G. Durand International of Millville, New Jersey, with respect to the proposed conversion of the Tariff Schedules of the United States into the language of the Harmonized Commodity Description Coding and System ("Harmonized System"), and in response to the invitation for comments of the Committee on Ways and Means (Release No. 19, October 26, 1987) concerning legislation to authorize the implementation of the conversion. J. G. Durand is the world's largest producer and distributor of tempered table glassware, and will be adversely affected by the retention of certain nomenclature in the conversion of the TSUS to the Harmonized Code.

Harmonized Code headings 7013.29.05, 7013.32.10, 7013.39.10 and 7013.99.20 provide for "specially tempered" table glassware. The words "specially tempered" originated in the 1962 Tariff Schedules with the flat glass provision, TSUS 544.31. The term "specially" is unique to the U.S. Tariff Schedules and is not used or recognized in Europe, the Brussells Tariff Nomenclature, or the Harmonized System. The rationale for its original use in 1962 was to provide for a product such as windshield glass that was resistant to mechanical shock, and that would break in a safe pattern following upon impact. In contrast, products of the table glassware industry are critically different from flat glass products in shape, thickness variations, and glass composition and use. However, table glassware products are tempered to resist both thermal and the mechanical shock for durability purposes, not safety. Therefore, tempered flat glass and molded table glassware do not break in the same fashion.

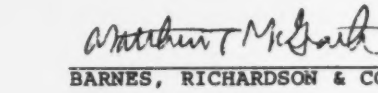
In recognition of the fact that the term "specially" is not used in the Harmonized System, this term has been eliminated by the TPSC in the conversion of Harmonized Code provisions for flat glass, namely headings 7007.11.00 and 7007.19.00. The term "specially" has not, however, been eliminated with respect to the description of tempered table glassware. The illogical result is that the provision from which the term "specially tempered" was originally derived, for purposes of describing tempered table glass has now eliminated this imprecise adjective, while the same adjective, which is not included in the Harmonized System nor has any meaning thereunder, remains in the converted provisions for tempered tableware glass.

Under the Tariff Schedules of the United States, the table glassware industry has experienced 25 years of difficulty with the Customs Administration of the specially tempered glassware tariff provisions, because of the application of flat safety glass breakage tests to table glassware. The breakage tests for such tempering processes relate to flat glass only, and those processes cannot, and are not intended to, impart the same characteristics to table glassware.

In order to avoid the administrative interpretation problems that have resulted over the years from the use of the flat glass phrase "specially tempered" in the TSUS, Durand strongly urges that the converted Harmonized Code be amended to eliminate the subjective, imprecise and misplaced term "specially" with reference to tempered table glassware under Harmonized headings 7013.29.05, 7013.32.10, 7013.39.10, and 7013.99.20. The tariff history of this provision indicates that a special description and lower tariff rate was to be accorded the producers of tempered table glassware. That intended concession from earlier tariff negotiating rounds has been negated through the unfair and illogical application to tableware of the

flat glass breakage test applied to specially tempered safety glass. The elimination of this adjective from the tempered safety glass provisions necessitates its removal from table glassware provisions as well.

Respectfully submitted,



BARNES, RICHARDSON & COLBURN

David O. Elliott
Matthew T. McGrath

Counsel to

J. G. DURAND & CIE.
J. G. DURAND INTERNATIONAL

STATEMENT OF
DAVID B. FALSTAD
ON BEHALF OF
J. I. CASE COMPANY

J. I. Case Company ("Case") favors the conversion of the Tariff Schedules of the United States into the nomenclature structure of the Harmonized Commodity Description and Coding System (the "Harmonized System"). Case also supports current efforts to implement the Harmonized System by the target date of January 1, 1988, and believes that the proposed expansion of H.R. 3 to provide for direct implementation of the Harmonized System is an appropriate means of furthering those efforts.

J. I. Case Company is a $3.4 Billion manufacturer of agricultural and construction equipment employing over 30,000 persons worldwide. It has manufacturing and distribution facilities throughout the United States, as well as in Australia, Brazil, Canada, England, France, Spain, and West Germany. It ships its products into nearly every country of the world; transnational shipments of parts and wholegoods during 1986 alone were valued at approximately $3 Billion. As a result, the multilateral adoption of a standardized product nomenclature will significantly facilitate the intercompany transfer of goods and the sale of products across national boundaries.

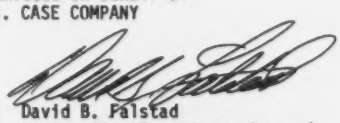
Due to the significance of the Harmonized System to Case's international business, key employees from the United States and from Case's foreign manufacturing affiliates have been working since January of 1987 to prepare the necessary procedures, as well as the Company's computer and communication resources, for the conversion to the new system on January 1, 1988. Case has assigned new commodity codes to over 750,000 parts, materials, and supplies; designed new software to store, monitor, and update import/export data; committed personnel in a variety of departments to implement, operate, and support the new system; and, in the case of some of its European affiliates, submitted compliance programs to local customs authorities for approval. Case has expended a great deal of time and effort to prepare itself for worldwide implementation of the Harmonized System on January 1, 1988. It is now geared up and ready to go.

Case will suffer serious hardship should the United States not meet the target date. Its foreign affiliates will be obligated to operate under the new system while its U.S. operations will be forced to continue under the old one. As the Company's transnational shipments are computerized, the computers can be programmed to operate under one system or another, but not both. If the United States fails to implement the Harmonized System by January 1st, Case will have to manually override the computer network for shipments into or out of the United States. The result will be needless delay, inefficient use of manpower, and wasted time and money.

Therefore, J. I. Case Company hopes the Committee on Ways and Means, both houses of Congress, and the President will together find a way to implement the Harmonized System by January 1, 1988. The proposal to provide for direct implementation of the Harmonized System as part of H.R. 3 is a good one. However, Case fears that due to the controversy surrounding other provisions of H.R. 3 (on which the Company does not comment in this statement), passage of the bill may be delayed or the President may veto it. If there is a possibility that either could happen, the Committee and Congress should consider enacting the Harmonized System directly into law independent of H.R. 3 in order to meet the January 1st target date.

Because the Harmonized System represents such a major achievement of international cooperation, and will yield practical benefits to so many businesses and countries, J. I. Case Company sincerely hopes this initiative does not become a casualty of our political process.

Submitted on behalf of
J.I. CASE COMPANY



By: David B. Falstad
Senior Vice President, General
Counsel & Secretary

STATEMENT OF

J.P. STEVENS & CO., INC.

This statement is submitted on behalf of J.P. Stevens & Co., Inc. who hereby requests that the Harmonized System (HS) be fully implemented on January 1, 1988.

Stevens, being a large entity in the textile products sector, has devoted thousands of man hours over the past thirteen years or so to the development of the Harmonized System. The textile industry, taken together, has devoted hundreds of thousands of hours to this extremely critical job. All this time from textiles, many other industries and interests and hundreds of U.S. government employees amounts to real money -- probably in the hundreds of millions. It surely would be recognized as a political tragedy if the System fails to be enacted as scheduled.

As for textiles generally, the TSUSA in use presently details over 40,000 line descriptions for the products of our industry. The complexity of the current system is a constant headache for all those who must conduct business within its parameters. The HS, however, eliminates much of the nightmare attendant the TSUSA.

Further, with today's system it is virtually impossible to track trade for like commodities from country-to-country. For the United States, one of the largest trading nations on earth and with an enormous trade deficit to prove it, to be unable to make sense of world trade by product is insanity. The Trade Act of 1974 recognized this foolishness and prescribed a solution -- let's move on it.

There is another compelling reason for the U.S. to implement the HS on January 1, 1988. It's simple -- all other important trading countries will move to the HS on that date. Should the U.S. fail to carry through, we will be at the mercy of all the others as the beginning structure and operations of this essential system are refined.

Moreover, for textiles the failure to implement on schedule will result in an unimaginable brouhaha. All recent trade agreements have been negotiated to fit the HS nomenclature. A new product category structure has been developed, at the government's behest I might add, which is effective on January 1. If the HS is implemented at any time other than a January 1st of any year, the whole textile trade program explodes into an international crisis which will consume year of everyone's time to sort through and recreate.

We implore the Committee to set aside any political jostling over the HS and get the job done by enacting implementation language as of January 1, 1988.

THE JOINT INDUSTRY GROUP
WASHINGTON, D.C.

Chairman
Kenneth A. Kumm

Secretariat
Harry Lamar
1629 K Street, NW, Suite 800
Washington, DC 20006
Telephone (202) 466-5490

November 4, 1987

Mr. Robert J. Leonard, Chief Counsel
Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Leonard:

This is in response to the request for written comments on the proposed implementation of the Harmonized System as announced in your press release #19 of October 26, 1987.

The Joint Industry Group is a business coalition of manufacturing firms, trade associations and business and professional firms involved in international trade with a particular interest in customs matters.

In a letter to Chairman Rostenkowski dated September 8, 1987, members of the Joint Industry Group requested the action the conferees have tentatively agreed to, that is, the direct implementation of the Harmonized System as a part of H.R. 3. The associations of the Joint Industry Group making that request were joined by a significant number of other trade associations and organizations, representative of a wide spectrum of the trade community. All of these organizations are listed in a copy of the letter which is attached. We asked that the letter be made a part of the printed record of the Committee.

With regard to the implications of adopting the Harmonized System and with regard to specific elements of the draft implementing legislation our September 8, 1987 letter to Chairman Rostenkowski stated:

> Among other business organizations, the Joint Industry Group has had the opportunity to review and propose changes to the implementing legislation prior to its submission. The bill now adequately addresses the legal implications of the United States adoption of the Harmonized System and approval of the Harmonized System Convention by the United States. It is believed that all that is necessary is a review by the House and Senate Legislative Counsels to make final noncontroversial technical adjustments.

The trade associations of the Joint Industry Group supporting January 1, 1988, implementation of the Harmonized System applaud the decision of the conferees on direct implementation of the Harmonized System as a part of H.R. 3. We reiterate our call for timely action to give sufficient lead time to the Census Bureau and the Customs Service to have their statistical and reporting systems interface appropriately with those of the private sector on January 1, 1988.

With regard to such timely action and in order to minimize transitional problems in the implementation, it would be most helpful if the House and Senate conferees on H.R. 3 could publicly announce their intention to seek alternative legislative means of achieving January 1, 1988 Harmonized System implementation should it appear that final action on H.R. 3 would come too late in the year for any reasonable expectation of implementation by the proposed date.

Thank you for this opportunity of presenting the views of the Joint Industry Group.

Sincerely,

Kenneth A. Kumm
Chairman

Attachment for the record:
September 8, 1987 letter to
Chairman Rostenkowski

THE JOINT INDUSTRY GROUP
WASHINGTON, D.C.

Chairman
Kenneth A. Kumm

Secretariat
Harry Lamar
1629 K Street, NW, Suite 500
Washington, DC 20006
Telephone (202) 466-5490

September 8, 1987

The Hon. Dan Rostenkowski, Chairman
Committee on Ways and Means
1102 LHOB
Washington, DC 20515-6348

Re: Conference Committee on H.R. 3

Dear Mr. Rostenkowski, Chairman:

On behalf of the business community as represented by the undersigned associations and organizations we request that the conference report on H.R. 3 provide for the full implementation of the Harmonized System on January 1, 1988.

The implementation of the Harmonized System by the United States is no longer controversial as this letter attests. The adoption of the Harmonized Commodity Description and Coding System (HS) is needed to assist U.S. exports and to improve the international trade operations of U.S. agriculture and industry and all U.S. business involved with international trade

There is a compelling need for the United States to implement the HS on January 1, 1988. The major industrial countries and many developing countries are going to implement the HS on that date. Should the United States fail to do so, we will have forfeited the opportunity to influence the beginning structure and operations of this key international system so central to the long run competitive interest of our exporters.

The process followed by the Executive Branch in developing the Harmonized System has afforded every opportunity to raise and address questions and problems of classification and rates of duty. In addition to public hearings by the U.S. International Trade Commission and the Trade Policy Staff Committee, there have been staff consultations with industry representatives and with the Committee Members and staffs of the House Ways and Means and Senate Finance Committees. Moreover, the various Trade Act advisory committees, including the Industry Functional Advisory Committee on Customs Matters, have been consulted on a continual basis. Many of the sectoral advisory committees have indicated their strong support for the immediate adoption of the Harmonized System.

It is recognized that at the time the House Committee on Ways and Means and the Senate Committee on Finance were developing their provisions of the omnibus trade bill that the proposed new United States Tariff Schedules had not been placed in final form, therefore, final implementing legislation could not be proposed to the Congress for timely consideration and approval. Such legislation, along with the HS Convention has now been forwarded to the Congress.

It is also recognized that the adoption of new tariff schedules is a complex matter normally requiring full and careful committee review to assure sound implementation and to keep oversights and inadvertences to a minimum. As is indicated above, we believe that the process of developing the tariff schedules and the implementing legislation has accomplished such a review. Given the magnitude and number of details involved in an undertaking of this nature, it may be anticipated that there will be a need for technical corrections to rectify oversights and inadvertences. As is the case with tax reform and was the case with the current tariff schedules, it would be best to address this possibility after enactment and with the benefit of operational experience. In any event this need would arise regardless of when the HS is implemented.

Among other business organizations, the Joint Industry Group has had the opportunity to review and propose changes to the implementing legislation prior to its submission. The bill now adequately addresses the legal implications of the United States adoption of the Harmonized System and approval of the Harmonized System Convention by the United States. It is believed that all that is necessary is a review by the House and Senate Legislative Counsels to make final noncontroversial technical adjustments.

For these reasons we urgently request that the Conference Committee on H.R. 3 agree to language that will implement the new United States Tariff Schedules as of January 1, 1988. This could be accomplished by substituting provisions for implementing the HS in lieu of both the House and Senate language on the HS in H.R. 3. Alternatively, the Conference Committee could agree to disagree and recommend for separate approval, within the context of the Conference Report, the requisite implementing provisions for the HS as of January 1, 1988.

We are aware of the many important and difficult decisions the Conference Committee must make in the coming days. Since this issue is no longer controversial there is no need to readdress implementation on a fast track basis later in the year, which could well prove too late for implementation by January 1, 1988. Timely action is vital to full and successful participation by the United States in this new international tariff classification system. Timely action to give sufficient lead time to the Census Bureau and the Customs Service to have their statistical and reporting systems interface appropriately with those of the private sector on January 1, 1988, is absolutely required for statistical accuracy and continuity. The business community strongly urges that the implementation of the HS be provided within the context of the Conference Report on H.R. 3.

Sincerely,

Kenneth A. Kumm,
Chairman, Joint Industry Group and
The business and trade associations and organizations listed below.

ASSOCIATIONS AND ORGANIZATIONS OF THE BUSINESS COMMUNITY REQUESTING IMMEDIATE APPROVAL OF LEGISLATION IMPLEMENTING THE HARMONIZED SYSTEM ON JANUARY 1, 1988

AMERICAN APPAREL MANUFACTURERS ASSOCIATION
AMERICAN IRON AND STEEL INSTITUTE
AMERICAN TEXTILE MANUFACTURERS INSTITUTE
BUSINESS ROUNDTABLE
CHAMBER OF COMMERCE OF THE UNITED STATES
CHEMICAL MANUFACTURERS ASSOCIATION
EMERGENCY COMMITTEE FOR AMERICAN TRADE
NATIONAL FOREIGN TRADE COUNCIL
SYNTHETIC ORGANIC CHEMICAL MANUFACTURERS ASSOCIATION
UNITED STATES COUNCIL ON INTERNATIONAL BUSINESS

TRADE ASSOCIATIONS OF THE JOINT INDUSTRY GROUP:

AEROSPACE INDUSTRIES ASSOCIATION
AIR TRANSPORT ASSOCIATION OF AMERICA
AMERICAN ELECTRONICS ASSOCIATION
AMERICAN RETAIL FEDERATION
AUTOMOBILE IMPORTERS OF AMERICA
COMMITTEE FOR PRODUCTION SHARING
COMPUTER AND BUSINESS MANUFACTURERS ASSOCIATION
COUNCIL OF AMERICAN-FLAG SHIP OPERATORS
ELECTRONIC INDUSTRIES ASSOCIATION
FOREIGN TRADE ASSOCIATION OF SOUTHERN CALIFORNIA
INTERNATIONAL FOOTWEAR ASSOCIATION
INTERNATIONAL HARDWOOD PRODUCTS ASSOCIATION
MINNESOTA WORLD TRADE ASSOCIATION
MOTOR VEHICLE MANUFACTURERS ASSOCIATION
NATIONAL ASSOCIATION OF MANUFACTURERS
NATIONAL ASSOCIATION OF PHOTOGRAPHIC MANUFACTURERS
NATIONAL BONDED WAREHOUSE ASSOCIATION
NATIONAL ASSOCIATION OF FOREIGN TRADE ZONES
NATIONAL CUSTOMS BROKERS AND FORWARDERS ASSOCIATION
NATIONAL RETAIL MERCHANTS ASSOCIATION

A memo from...

WILLIAM THORNTON

Kahn, Lucas, Lancaster, Inc.
131 WEST 35th STREET NEW YORK, N.Y. 10001
(212) 244-4500 FAX (212) 967-8375 TELEX 420051 KLL NY

NOVEMBER 6, 1987

MR. ROBERT J. LEONARD
CHIEF COUNSEL
HOUSE WAYS AND MEANS COMMITTEE
ROOM 1102
LONGWORTH BUILDING
WASHINGTON, DC 20515

DEAR MR. LEONARD,

RE: "FAST TRACKING" OF HARMONIZED SYSTEM

AS AN IMPORTER OF APPAREL, I AM HIGHLY IN FAVOR OF MOVING THE HS BILL THROUGH CONGRESS QUICKLY IN ORDER THAT THE SYSTEM BE IMPLEMENTED JAN 1, 1988. TWO REASONS (AMONG OTHERS) PROMPT ME TO ENCOURAGE THIS ACTION:

1) VERY IMPORTANT THAT THE WORLD'S LARGEST TRADER BE "ON STREAM" WHEN MOST OF THE WORLD IMPLEMENTS THIS MUCH IMPROVED AND UNIFORM SYSTEM. I UNDERSTAND THAT WE WILL NOT BE REPRESENTED ON THE RULES INTERPRETATION BOARD UNLESS WE IMPLEMENT ON JANUARY 1, 1988.

2) WE MUST CLARIFY OUR POSITION ON THIS MATTER OR WE WILL CONTINUE TO SHOW CONFUSION TO OUR TRADING PARTNERS. CURRENTLY MANY BUSINESSES DEPEND ON WORKING PROGRAMS OUT 6-8 MONTHS IN ADVANCE WITH BUSINESS PARTNERS OVERSEAS. AT THIS MOMENT WE CANNOT TAKE DECISIVE ACTION OF BUSINESS PROGRAMS FOR FALL 88.

WE NEED THE WAYS AND MEANS COMMITTEE'S HELP TO PUSH THIS IMPORTANT LEGISLATIVE ACT THROUGH FOR THE PRESIDENT'S SIGNATURE.

SINCERELY,

W. C. Thornton

COMMENTS OF K MART CORPORATION, RRF INDUSTRIES, INC., FOREIGN RESOURCES CORP., EXCELLED SHEEPSKIN, MAVEN INTERNATIONAL, TOWN AND COUNTRY LINEN CORP., A & A INTERNATIONAL, AND CHARLES JACQUIN ET CIE, ON THE PROPOSED HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM

These comments are filed by Sharretts, Paley, Carter & Blauvelt, P.C. on behalf of the above-mentioned importers, in response to a Press Release, dated October 26, 1987, soliciting public comment on the proposed conversion of the Tariff Schedules of the United States (TSUS, into the nomenclature structure of the Harmonized Commodity Description and Coding System ("Harmonized System," or "HS").

Our clients endorse the concept of a Harmonized System, to be used for Customs tariff, statistical and transport documentation purposes, by contracting parties throughout the world. Our clients believe that the creation of an international commodity system will reduce administrative burdens and allow them to more accurately monitor worldwide trade in their respective product lines. Nevertheless, our clients believe that certain corrections should be made to the current draft of the HS, in order to ensure equitable treatment in the proposed conversion.

I. WEARING APPAREL

Textile Garments Made of Special Blends of Fabric

Because textile articles will be classified under the HS based on the component material in chief weight rather than the component material in chief value of the articles, the classification and duty rates for many articles of wearing apparel are subject to change. This is particularly true for garments made of blended fabrics containing silk, or other vegetable fibers (except cotton). Such garments often are in chief value of silk, linen, and/or other vegetable fibers, while they are in chief weight of cotton, wool or man-made fibers. The TSUS duty rates for garments in chief value of silk, linen and/or other vegetable fibers are much lower than those for cotton, wool, or man-made fibers. The original drafts of the HS would have resulted in an across-the-board increase in duty rates for garments made of these blends.

In an effort to ameliorate this result, the drafters of the current version of the HS provided subheadings under many of the main headings for cotton, wool and man-made fiber garments to cover garments containing a certain percentage by weight of silk or linen. These special subheadings provide for lower duty rates than those generally applicable to garments "of" cotton, wool or man-made fibers, rendering the conversion to the HS duty neutral in such instances.

Nevertheless, the drafters of the HS did not make such provisions in a consistent manner, and many garments currently subject to the low duty rates for silk and other vegetable fibers will be subject to substantially higher duty rates if the current draft of the HS is enacted.

Some examples of the inconsistencies are as follows. Currently, men's and women's woven wool suits which are in chief value of silk are dutiable at the rate of 8 percent or 7.5 percent

depending upon whether they are ornamented. Under the proposed HS, men's woven wool suits containing 30 percent or more by weight of silk will be dutiable at the rate of 7.5 percent (HS heading 6203.11.10) rather than at the wool rate of 77.2 cents per kilogram plus 20 percent. On the other hand, women's woven wool suits, regardless of content, will be dutiable at the wool rate of 17 percent (HS heading 6204.11.00). In addition, under the current draft of the HS, women's woven wool suit-type coats and jackets containing 30 percent or more by weight of silk enjoy the favorable duty rate of 7.5 percent, yet the same garments made for men will be assessed at the rate of 22 percent. Similarly, women's woven synthetic suit-type coats and jackets containing 30 percent or more by weight of silk or 36 percent or more by weight of flax fibers (linen) will be subject to duty rates of 7.5 and 3 percent, respectively, rather than the synthetic rate of 29 percent. Yet, women's artificial and men's synthetic and artificial suit-type coats and jackets with similar compositions will be assessed at the rate of 29 percent.

There are several special provisions with lower duty rates for garments containing 36 percent or more by weight of flax fibers, but once again, they have been added inconsistently, inasmuch as not all garments in these blends will be accorded the same treatment. Moreover, we note that the more prevalent blends containing ramie and other vegetable fibers, which consistently have enjoyed favorable duty rates in the past, have been ignored completely.

Accordingly, we urge Congress to ensure that provisions are made in the HS for the retention of the favorable duty rates currently applicable to all garments which are in chief value of silk and other vegetable fibers.

Textile and Leather Coats

Under the TSUS, wool and man-made fiber coats that are in chief value of their leather trim are classifiable as wearing of apparel, of leather, dutiable at the rate of 6 percent (TSUS item 791.74). The current draft of the HS has only retained this favorable rate in the provision for men's knit man-made fiber coats, with a special subheading for such coats containing 25 percent or more by weight of leather (HS No. 6101.30.10). No such provision has been made for other man-made fiber coats or for any wool coats, resulting in substantial duty increases and a significant economic impact to the importing community.

Accordingly, we urge that subheadings similar to the one provided for men's knit man-made fiber coats containing 25 percent by weight of leather be inserted for all man-made fiber and wool coats. Such subheadings, with a duty rate of 6 percent, would maintain the current rate and provide equitable treatment for all such garments.

Plastic Coated, Filled or Laminated Garments

Currently, textile garments coated, filled or laminated with non-transparent plastic are classified as wearing apparel of plastic under item 772.31, TSUS, dutiable at the rate of 5 percent. In addition, garments designed for rainwear, hunting, fishing, or similar uses, which are coated or filled or laminated with plastic that is not considered non-transparent, are classified under item 376.54, TSUS, at 6.6 percent (cotton) or item 376.56, TSUS, at 7.6 percent (man-made fibers). In these last provisions, the plastic might be applied to the lining, the interlining or the outer surface of the garments.

In the current draft of the HS, there are several provisions which ostensibly cover all of the garments currently classified in items 772.31, 376.54, and 376.56, TSUS. As we will demonstrate herein, all such garments are not covered by the HS provisions, which will result in substantial duty increases for those that have beem omitted.

Headings 6113 and 6210 provide for garments made of fabrics which are coated, filled or laminated with plastics, dutiable at the rates of 6.6 and 7.6 percent. However, under the HS, fabric is considered to be coated, filled or laminated only if the plastic application is visible to the naked eye. Accordingly, many garments that are currently classifiable under items 376.54 and 376.56, TSUS, are excluded from the coverage of HS headings 6113 and 6210.

In an attempt to resolve this problem, the drafters of the HS inserted subheadings under certain headings for wearing apparel of cotton and man-made fibers, providing lower duty rates for "rainwear." To qualify for classification in these subheadings, garments must have a plastic application on the outer shell, lining or inner lining that provides a certain level of water resistance (U.S. Note 3, Chapter 62). Although these subheadings resolved part of the problem, they do not go far enough, inasmuch as it appears that only garments designed for rainwear are included, whereas other garments, such as ski wear, may be excluded, even though they may have the appropriate plastic application and water resistance. Accordingly, we suggest that the language of the rainwear subheadings be broadened to cover ski wear, hunting and fishing garments, and similar articles.

Another problem that has arisen relates to the classification of garments coated with non-transparent plastics, currently dutiable at the rate of 5 percent under TSUS item 772.31. There are two possible classifications for such garments under the HS: 1) as articles of apparel of plastic, in HS No. 3926.20.50, dutiable at the rate of 5 percent, or 2) as garments having an outer surface impregnated, coated, covered or laminated with plastic that completely obscures the underlying fabric, in various statistical breakouts in HS headings 6113 and 6210, with duty rates of 6.6 and 7.6 percent. The legal notes do not provide much help in determining which provisions are applicable to such plastic garments. Legal Note 2, Chapter 39, excludes textiles and textile articles of Section XI from classification in Chapter 39. Legal Note 1 for Section XI excludes articles made of fabrics impregnated, coated, covered or laminated with plastics, "of" Chapter 39. Thus, the possibility exists that garments currently dutiable at the rate of 5 percent will be subjected to rates of 6.6 and 7.6 percent under the HS. Accordingly, we urge Congress to ensure that these garments will retain a duty rate of 5 percent and be classified under Chapter 39, by removing the statistical breakouts in headings 6113 and 6210 discussed above.

Column 2 Duty Rates

Under the TSUS, the Column 2 duty rates for wearing apparel are substantially higher in the ornamented provisions than in non-ornamented provisions. Because the proposed HS virtually eliminates the concept of ornamentation, both ornamented and non-ornamented wearing apparel will be subject to the same duty rates. As a result, the HS Column 1 rates have been set at either averages of the current rates for ornamented and non-ornamented wearing apparel, or simply at the lower rates for non-ornamented garments. This is not always the case with respect to the Column 2 duty rates.

For example, men's woven cotton pants currently are classified, if ornamented, under item 381.05, TSUS, at the Column

2 rate of 90 percent. If not ornamented, such pants are provided for under item 381.62, TSUS, at the Column 2 rate of 37.5 percent. In the current version of the proposed HS, all men's woven cotton pants will be classified under heading 6203.42.40, dutiable at the Column 2 rate of 90 percent. We believe that, at the very least, the wearing apparel provisions in the HS should be assigned Column 2 rates that are a weighted average of the current ornamented and non-ornamented rates, and request that Congress take steps to ensure that such an equitable adjustment is made.

II. OTHER TEXTILE ARTICLES

Under the TSUS, the classification and duty rates of "other furnishings," of textile, such as tablecloths, napkins and placemats, are governed by whether or not the furnishings are ornamented. Ornamented furnishings bear higher duty rates than those that are not ornamented. Because the concept of ornamentation has been virtually eliminated in the proposed HS, furnishings will be subject to one specified duty rate for each fiber content. In most cases, the duty rates for other furnishings in the HS have been set at an average of the ornamented and non-ornamented rates, or simply at the non-ornamented rates, in order to avoid substantial increases for those furnishings which are, in fact, not ornamented.

Nevertheless, there is one instance where this equitable treatment was omitted, but which we believe can be easily rectified. Currently, other ornamented furnishings of man-made fibers are classified under item 365.89, TSUS, at the rate of 12.8 percent, and other non-ornamented man-made fiber furnishings fall under item 367.63, TSUS, at the rate of 8.5 percent. Under the HS, both ornamented and non-ornamented other furnishings of man-made fibers will be classified under heading 6302.53.0030, at the ornamented rate of 12.8 percent. In keeping with the avowed intention that the conversion to the HS would be duty neutral, we suggest that the duty rate for other furnishings of man-made fibers be set at a weighted average of the current ornamented and non-ornamented rates, or at the non-ornamented rate.

A similar inadvertent increase in duties appears in the provisions for other articles of textile. The TSUS provides for ornamented textile articles, of silk, of vegetable fibers except cotton, and of man-made fibers, under item 386.14, dutiable at the rate of 10 percent, and eligible for duty free treatment from eligible countries pursuant to the Generalized System of Preferences (GSP). GSP treatment is not provided for similar textile articles, not ornamented.

Under the HS, both ornamented and non-ornamented other textile articles will be classified in heading 6307.90.80. Although the lower duty rate of 7 percent has been assigned to this heading, it has not been designated as a GSP provision. In order to ensure equitable treatment in the conversion to the HS, we urge that Congress provide for GSP treatment for this heading or insert a statistical breakout with GSP eligibility specifically for ornamented textile articles.

III. TRANSISTORS

Transitors

Under item 687.70 of the TSUS, "transistors" are duty free, pursuant to section 308 of the Trade and Tariff Act of 1984

(Pub. L. 98-573; 98 Stat. 2948, 3013), section 128 of the Trade Act of 1974 (19 U.S.C. 2138) and Presidential Proclamation 5305 of February 21, 1985. However, as of the July 1987 version of the proposed HS, these same "transistors" are provided for under items 8541.21.00 and 8541.29.00, both of which carry a duty rate of 4.2 percent.

This proposal not only demonstrates a clear deviation from the declared duty neutral interest promised to the importing community, but it also is contrary to a specific mandate of Congress, as implemented by the President. Accordingly, we request that the duty free treatment for transistors be reinstated in the proposed HS prior to implementation.

Time Switches

Under the TSUS, certain "time switches" which contained only a liquid crystal display (rather than a clock movement having moving parts), are dutiable at 5.3%, under item 685.90, TSUS. However, as of the July 1987 version of the proposed HS, all "time switches" valued at over $5 each are provided for under item 9107.00.80, at a duty rate of 45¢ each plus 6.4 percent. This proposed treatment of those time switches which contain only liquid crystal displays is totally inconsistent with the proposed treatment of all other clocks and watches "with opto-electronic display only." All such other articles are provided for in break-out items which carry a 3.9 percent duty rate. Therefore, we urge Congress to provide a similar statistical breakout for time switches.

IV. JELLIES AND JAMS

Currently, jellies and jams are classified within Schedule 1, Part 9, Subject C of the TSUS (items 153.03, et seq.) with duty rates varying between 3% for currants and other berries (including strawberry) and 7% for other fruits, notably apricots, peaches and cherries.

Under the HS (2007.99.05 et seq.), these very jams will be subjected to duty rates up to 5 times higher than those currently being imposed. The following chart demonstrates the significance of these proposed new duty rates.

Product	H.S. Rate	TSUS Rate
Apricot	35	7
Peach	20	7
Cherry	15.4¢/Kg + 10%	7
Lingonberry and raspberry	7	3
Strawberry	4.9	3

These substantial increases in duty rates clearly are inconsistent with the avowed intention that the conversion to the HS would be duty neutral. Accordingly, we request that Congress implement HS duty rates for jams and jellies consistent with the rates currently applicable under the TSUS.

V. CONCLUSION

We thank the Committee on Ways and Means for the opportunity to submit these written comments on the proposed HS. As these comments reveal, our clients believe that Congress should enact this new classification system. Nevertheless, our clients request that, prior to implementation, Congress take the necessary steps to ensure that the conversion to the HS is entirely equitable.

Written Comments in Response to Request by the U.S House of Representatives Committee on Ways and Means on Proposed Implementation in the Trade Bill of the Conversion of the Tariff Schedules of the United States into the Harmonized Commodity Description and Coding system

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Introduction:

Listeff Fashions, Inc., ("Listeff") of New York, New York is a design house, importer, and a U.S. wholesaler of women's leather wearing apparel. Listeff has been in business for eleven (11) years with annual sales of approximately $50 million. Listeff is principally owned and operated by Mr. Richard Madris and Mr. David Winn. Listeff's product line spans the full range of women's leather and suede fashions and includes coats, dresses, jackets, and outerwear. Two of Listeff's principal lines of garments include leather wearing apparel (either close to, or wholly comprised of leather) and combination leather/textile apparel (e.g., cotton, wool, or manmade fibers), specifically women's coats and jackets, imported from the Dominican Republic, Korea and Taiwan. Listeff has imported and is currently importing the "wholly leather" and the combination leather/textile lines in compliance with the TSUS as provided for under Schedule 7, and specifically 791.76 (wholly leather) and 791.74 (combination leather/textile wearing apparel). However, under the proposed Harmonized Tariff Schedule ("HTS"), certain combination leather/textile articles of apparel will be subjected to inequitable and adverse changes which appear to have little or no basis in logic.

The purposes, therefore, of the written comments contained herein are fourfold:

(1) To identify the issue as it pertains to Listeff Fashions, Inc., in particular, "women's combination leather/textile coats and jackets" (herein referred to as "coats and jackets");

(2) To establish the chronology and rationale inherent in the current TSUS as it applies to the aforementioned coats and jackets;

(3) To illustrate how, in the case of the "coats and jackets", the proposed HTS ignores the general purpose and intent of the HTS as well as the specific logic otherwise contained in the HTS as it applies to the coats and jackets; and

(4) To recommend a reasonable solution to the inappropriate or undistinguished classification and inequitable duty increase as contained in the proposed HTS as it applies to the coats and jackets.

I. Statement of Issue

Under the current TSUS, women's combination leather/textile coats and jackets fall within Schedule 7 ("Specified Products, part 13; Products not Elsewhere Enumerated"), and specifically under TSUS 791.7415 and 791.7440. Because the subject "coats and jackets" contain a portion of textile material (e.g. cotton, wool or man-made fiber), they are

subject to the Multifiber Agreement ("MFA") and the corresponding quota restraints. In addition, the coats and jackets are currently subject to a 6% import duty.

Under the proposed HTS however, the distinctive leather characteristic of the coats and jackets would be entirely eliminated, thereby placing the coats and jackets into classification headings applicable to coats and jackets composed wholly of cotton, wool or man-made fiber. Moreover, the placement of the coats and jackets into the wholly of cotton, wool man-made fiber categories, subjects these articles to significantly higher duties intended solely for wholly cotton, wool and articles as well as the MFA quota restraints.

Consequently, the issue is primarily one of improper or undistinguished classification (though perhaps not intentional) of the coats and jackets, which in turn creates an unwarranted adverse and unjustifiable increase in duty rates.

II. Treatment of combination leather/textile wearing apparel under the TSUS classification

Subsequent to the initial TSUS classification determinations, the question was raised as to the appropriate classification of combination leather/textile-material wearing apparel; that is, should wearing apparel comprised of leather and other textile materials be placed under Schedule 3 (Textile and Apparel Heading) or Schedule 7 (Special Products; Miscellaneous and Nonenumerated Products)? The fundamental issue revolved around the fact that the combination articles could reasonably be classified as both a leather good and as an article of apparel. On the one hand, an article of apparel containing some proportion of wool, cotton, or man-made fiber was subject to the Multifiber Agreement.

On the other hand, the particular items in question also contained a high-value added of leather, a component not subject to the MFA. Moreover, the items were recognized as leather items (e.g., leather dresses, coats, jackets, etc.), notwithstanding the fact that some portion of the garment was also attributable to a "textile" material.

Ultimately, the issue was resolved both in terms of proper classification on the basis of leather content as well as adherence to the MFA. Successful achievement of both objectives was addressed by creating two special provisions for wearing apparel of leather (either in whole or in part) under Schedule 7 of the TSUS (as opposed to Schedule 3). The first provision covered "wearing apparel not specially provided for, of leather, other." Within this subheading of 791.76, coats and jackets for men and boys (791.76.20), and women, girls and infants (791.76.40) were subject to an import duty rate of 6% ad valorem (Exhibit 1). Consequently, this subheading/classification covered wearing apparel comprised "wholly of" leather meaning that the goods are, except for negligible or insignificant quantities of some other material or materials, composed completely of the named material; in this case, leather.

The second special classification which was added as a subsequent amendment dealt with combination leather/textile wearing apparel and shown in the TSUS as 791.74, "wearing apparel not specially provided for, of leather, other." The criteria set forth in determining application under 791.74 is as follows:

> Containing 50% or more by weight of cotton, wool, or man-made fibers, or any combination thereof, or containing 50% or more by weight of textile materials with wool comprising 17% or more by weight of the article. (Exhibit 2)

Therefore, wearing apparel with chief value of leather and of textile materials containing 50% or more by weight were recognized as leather articles. Notwithstanding this recognition, the textile component and the need to adhere to MFA standards was not ignored, but rather incorporated into the classification by subjecting the articles to the appropriate MFA quota restraints (e.g., cotton, wool, or man-made fibers). Finally, the combination leather/textile articles were also subject to a 6% import duty (as were the "wholly of" leather articles under 791.76).

Thus, under the TSUS, special provisions, or "breakouts" were afforded to acknowledge both the leather component in the form of a 6% duty and the textile-material component (on the basis of chief weight) in the form of MFA quota restraints.

III. Treatment under the Proposed U.S. Tariff Schedule in the Harmonized System Nomenclature ("Harmonized Tariff Schedule or "HTS"

Under the proposed HTS, however, the concept of equitable treatment as it pertains to combination leather/textile articles of wearing apparel appears to have been lost, though perhaps not intentionally. The basis for this assessment is founded on the following factors.

First, the distinction between wearing apparel of leather (in whole or in part) and textile wearing apparel present under the TSUS would no longer exist. As proposed under the HTS, while treatment of apparel "wholly of leather" would essentially be preserved under Heading 4203 and at the current duty rate of 6% and without MFA quota restraints (Exhibit 3), treatment of combination leather/textile articles of apparel would not be preserved (for the most part). Rather, leather apparel containing the same proportions of textile materials as defined in the TSUS would fall under Headings/classifications relating to the textile material of chief weight and subject to import duties as if the articles were "wholly of" wool, cotton, or man-made fiber. (The Chapter Headings would be either Chapter 61 or 62 with the determination depending on whether the article was knitted or not knitted, 61 and 62 respectively). Hence, the TSUS standard of "chief value" as it pertains to leather combination articles of apparel would be eliminated under the HTS and replaced solely with the standard of "chief weight."

Consequently, not only would combination leather/textile articles of apparel lose their distinction as leather goods they would be grouped into categories composed of articles "wholly of cotton, wool, or man-made fibers, and thereby subject to substantially higher import duties as well as to the MFA quota restraints.

An illustration of how combination leather/textile apparel articles would be treated under the proposed HTS is warranted, particularly as it pertains to items imported by Listeff Fashions, Inc. As previously noted, the specific items of concern to Listeff are women's jackets and coats of leather and textile composition. Under the TSUS, the coats and jackets were classified under 791.7415 and 791.7440. The coats and jackets were eligible under the special provision for leather category because the essential characteristic was determined to be leather (the material of chief value was leather with the material of chief weight

being either cotton or wool.) As such, the coats and jackets were subject to both an import duty of 6% and to the MFA quota restraints for cotton and wool.

Under the proposed HTS, however, the same coats and jackets would be classified solely on the basis of the material of chief weight and on the specific type of article. For example, leather coats and jackets:

With wool:

6202.11.00: Overcoats, carcoats, capes, cloaks, and similar coats of wool or fine animal hair;

6202.91.20: Anoraks, windbreakers, etc. of wool or fine animal hair; and

6204.31.20: Suit-type jackets or blazers of wool or fine animal hair:

Duty: 46.3¢/kg. +21% (for all above)
MFA quota category 435

With cotton:

6202.12.20.50: Overcoats, carcoats, capes, cloaks & similar coats

6202.92.20.60: Anoraks, windbreakers, etc.

Duty: 9.5 %
MFA quota category: 335 (Exhibit 4)

6204.32.20.30: Suit-type jackets and blazers

Duty: 10%
MFA quota category:

Thus, unless the coats and jackets are wholly of leather (close or equal to 100% leather), then the coats and jackets become "wholly of cotton or wool", irrespective of the leather content, and subject to the same duties as articles 100% of cotton or wool. In terms of duties, the rate would go from a 6% duty (under the current TSUS) to an effective rate in the range of 22 to 26% under the proposed HTS.

Implicit Inequities Contained in Proposed Duty Rates: TSUS vs. proposed HTS

TSUS duty rates on 791.7415 and 791.7440 (women's combination leather/textile coats and jackets) are 6% ad valorem, calculated on the basis of dollar value. Accordingly, because leather is of chief value, the duty aptly reflects the item of highest value in the garment.

Proposed HTS: As previously noted, under the HTS, classification for Textiles and Textile Apparel is based on the component of chief weight. However, in terms of the duty rates as they would apply to items formerly in 791.7415 and 791.7440 (cotton and wool), the duty would be either 9.5% or 10% on the value (not weight) for combination leather/cotton coats and jackets, and 46.3¢/kg + 21% for combination leather/wool coats and jackets. Therefore, the leather and the value of the leather portion of combination leather/cotton or wool coats and jackets, while totally ignored for the purposes of classification, nevertheless represents the basis upon which the duty is computed, as well as representing a disproportionately higher share of the dollar duty amount. A comparative example illustrates how the duty on a women's combination leather/wool coat or jacket under the TSUS and the proposed HTS would yield very different and adverse results:

Assumptions:

(1) weight of jacket: 3 lbs. or 1.36 kg (weight of wool = .70 kg., weight of leather = .66 kg

(2) value of jacket: $50 (value of leather = $35, value of wool = $15)

HTS duty: 46.3¢ kg + 21%

HTS

1. 46.3¢/kg
   3 lbs. = 1.36 kg x 46.3¢ = $.63

2. 21% x $50 = $10.50

3. $.63 + 10.50 = $11.13 = Duty vs. TSUS Duty of 6% x $50 = $3.00

Therefore, the duty payable of $11.13 is disproportionately comprised of the value of leather and not wool--the component for which the higher duty is targetted. Moreover, only a very small proportion of the total duty is actually attributable to the element of chief weight, in this case, wool.

The same results occur in the case of combination leather/cotton coats and jackets, although the magnitude is not as great as in the case of wool. (The duty on wool is greater than the duty on cotton).

Finally, if compared in the aggregate, that is, using the U.S. Import data for goods within the TSUS categories 791.7415 and 791.7440 from 1983 to 1987 (cumulative through July 1987), the percentage increase under the proposed HTS as compared with the current 6% duty rate of the TSUS, for cotton (791.7415) would move from 55% to as high as 70%. For wool (791.7440), the percentage change is substantially higher: 240% up to 2[illegible]% Moreover, the effective duty rate on combination leather/wool would increase from 6% to as high as 24.6% with 93% of the HTS duty dollar amount derived on the basis of value primarily of leather and not on the basis of chief weight, wool.

(See Exhibit 5, Duty Comparisons).

IV. Purpose and Intent of the Proposed HTS

As stated in the "Harmonized System Handbook, A Guide to the New U.S. Tariff" published by the U.S. Department of Treasury, U.S. Customs Service, August 1986, "the conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System represents an expansion of the core structure of the Harmonized System to provide for national tariff and statistical requirements." Further, "the conversion was undertaken at the request of the President with the directive to avoid tariff-rate changes to the extent practicable and to simplify the tariff where possible without rate changes significant for U.S. industry, workers or trade." (emphasis added). (Note: quotes referenced hereinafter are from the Harmonized System Handbook, August 1986, unless otherwise noted)

Proper classification of goods within the proposed HTS is, while paramount, not always easily done, and in some instances, "arbitrary." As such "titles to the sections and chapters have no legal significance." Further, "classification must always be given to the material of which the goods are made and to their function." Guidance as to proper classification is provided by the General Rules

of Interpretation (GRI), the Additional U.S. Rules of Interpretation, as well as the "Notes" preceding the individual chapters and sections, all which have legal force.

GRI: There are six (6) rules of interpretation for the HTS of which the first three are the most important.

GRI 1: Under GRI 1, the primary consideration of goods is the terms of the heading itself along with the notes.

GRI 2: Under GRI 2, two (2) provisions are included. The first GRI 2(a) extends the provisions of headings to include articles that are incomplete; GRI 2(b) applies to mixtures or combinations of materials within a heading based on material, and when goods consist of two or more materials of substances. GRI 2(b) also extends all tariff headings relating to a material or substance to include goods that are not entirely of that material or substance. Further, when the addition of another material or substance deprives the goods of the kind mentioned in the heading as established by application of GRI 1, then recourse to GRI 3 is invoked. In this case, the goods are "prima facia" classifiable in two or more headings corresponding to each one of the constituent materials or substances."

GRI 3: GRI 3, is divided into three parts to assist in resolving classification problems. GRI 3(a) states that the heading which provides the most specific description is to be preferred, or "relative specificity"; that is a description by name is more specific than a description of class, or a description that more clearly identifies a product is more specific than one which is less complete.

GRI 3(b) concerns the classification of goods composed of mixed or combined materials and also goods put up in sets. Under GRI 3(b), goods become classifiable as if they consisted wholly of the material or component which gives them their essential character (emphasis added). In situations "where the goods are prima facia classifiable in two or more headings, the matter is to be resolved on the basis of essential character, and not on the basis of relative specificity".

Therefore, the term "essential character" bears critical meaning and has been construed to mean "the attribute which strongly marks or serves to distinguish what an article is; that which is indispensable to the structure, core, or condition of the article." The Handbook (Customs) further states that determinations of essential character "bears no relation to component material in chief value, as such, and cannot be resolved on the basis of any single factor such as weight."

Finally, notwithstanding the GRI, the HTS uses the standard of "chief weight" throughout for textiles.

Application of the GRI, Additional U.S. Rules of Interpretation and the Chapter notes to women's combination leather coats and jackets.

The question of proper classification of women's combination leather/textile coats and jackets can be partially resolved (though not necessarily definitively) by applying the GRI, the U.S. rules, and the chapter notes.

The first question then is, do the combination leather/textile articles fall within the Chapter pertaining to leather goods (Chapter 43) or Textiles and Apparel (Chapters 61 and 62)? Not until this issue is resolved, can the question of the "chief weight" standard be addressed.

In reviewing the GRI, GRI 3(b) is the operative rule with regard to the "coats and jackets", as it applies to the classification of combined materials. Under GRI 3(b), the goods become classifiable as if they consisted wholly of the material or component which gives them their "essential character", or the "attribute which strongly marks or serves to distinguish what an article is." Further, as essential character bears no relation to component material in chief value as such, and cannot be resolved on the basis of any single factor such as weight. In applying the standard "wholly of", clearly the leather jackets with negligible portions of other materials would and are classified under Chapter 42. It appears then that the decision to classify combination leather/textile coats and jackets into the Textile & Textile articles Chapters (61 and 62) was reached because they were not "wholly of" leather.

Clearly, the intent of maintaining the textile component standards was present as illustrated by the fact that the same criteria of the TSUS Schedule 7 ("50% or more ...) exists as contained in Section XI (Textile and Textile Articles, Statistical Note 2) as it applies to cotton, wool and man-made fibers under the MFA (Exhibit 6). Thus, while the purpose of adhering to the MFA was not lost in classifying the coats and jackets in Chyapter 62, the distinction or reference to leather was lost on women's coats and jackets. The distinction of leather was not lost however, in at least two other classifications under Chapter 61, namely:

- o 6101.30.10, mens and boys overcoats, carcoats, capes, cloaks, anoraks, windbreakers, and similar articles, knitted or crocheted, man-made fibers; and

- o 6110.30.10 mens and boys, women's and girl's sweaters, pullovers, sweatshirts, waistcoats, vests, similar articles, knitted, of man-made fibers

  each containing 25% or more by weight of leather:

  Duty: 6%
  :quota restraints (MFA) (Exhibit 7)

Thus, one might reasonably state that while there may be no dispute over whether the coats and jackets should be classified under Chapter 62 (for not-knit textile articles of apparel) which contains the same basic textile component criteria as under the TSUS, why have some combination leather/textiles articles been specially provided for in terms of their leather content, while others (womens' coats and jackets) have not been afforded the same distinction? Moreover, the duty rate for the recognized combination leather/textile articles remain unchanged from the TSUS rates (of 6%), while the combination leather/textile coats and jackets are lumped into categories as if they have no leather content whatsoever, and are therefore subject to substantially increased duties as if they were either wholly of wool, cotton or man-made fibers.

V. Conclusion and Recommendations

A. Conclusion:

Consequently, the proposed HTS raises two interrelated issues as it affects combination leather/textile coats and jackets:

(1) Inappropriate and/or undistinguished classification, and

(2) Imposition of significantly higher and unwarranted duty rates

With regard to the issue of inappropriate and/or undistinguished classification, Listeff Fashions believes that while the general classification under Chapter 62 may be warranted, the absence of a special provision, or "breakout" that adequately recognizes the leather component is not warranted. Without the breakout, the characteristic of leather is eliminated for combination leather coats and jackets which heretofore have been afforded equal and just treatment. In addition, adherence to the MFA quota restraints could be maintained as well.

The issue of significantly higher duty rates is related to the inappropriate or undistinguished classification insofar as the leather combination textile coats and jackets would be grouped into "wholly of cotton, wool, or man-made fiber" categories and therefore subject to the same duties as if there was no leather content at all. The effective duty rate in dollar terms actually reflects the leather content, not the wool or cotton content for which they were expressly intended.

To summarize, while the underlying standards to maintain adherence to the MFA have not changed (from the TSUS to the proposed HTS), the treatment of women's combination leather/textile coats and jackets would be significantly altered, yet without merit or just cause.

Without these modifications, Listeff Fashions (and other U.S. importers of these articles) would be subject to inequitable and adverse treatment under the proposed HTS in the form of an effective duty rate in the range of 22 to 26%, a result which is directly opposed to the stated intent and purpose of the implementation of the HTS.

B. Recommendation:

To rectify the inequitable treatment to women's combination leather/textile coats and jackets, a "breakout" which sufficiently recognizes the leather content, a duty equal to the TSUS duty rate of 6%, and continuation of the MFA quota restraints would resolve the issues.

SCHEDULE 7. - SPECIFIED PRODUCTS; MISCELLANEOUS AND MISCELLANEOUS MANUFACTURES
Part 13. - Products Not Elsewhere Enumerated

EXHIBIT 1

7 - 13 - 8
791.74 - 791.91

Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty		
				1	Special	2
		Wearing apparel not specially provided for, of leather (con.):				
		Other (con.):				
791.74 (con.)		Containing 50% or more by weight of cotton, wool, or man-made fibers, or any combination thereof, or containing 50% or more by weight of textile materials with wool comprising 17% or more by weight of the article (con.):				
		Subject to man-made fiber restraints (con.):				
		Not knit (con.):				
		Trousers, slacks and shorts:				
	80	Men's and boys'.....(647)	Doz. v Lb.			
	81	Women's, girls' and infants'.....(648)	Doz. v Lb.			
	84	Other.....(659)	Doz. v Lb.			
	90	Other.....	Doz. v Lb.			
791.76		Other.....	.....	6% ad val.	Free (1)	35% ad val.
		Coats and jackets:				
	20	Men's and boys'.....	No.			
	40	Women's, girls' and infants'.....	No.			
	60	Other.....	No.			
		Articles not specially provided for, of leather:				
791.80	00	Of reptile leather.....	X.....	5.6% ad val.	Free (A,E+) 3.4% ad val.(1)	35% ad val.
791.81	00	If Canadian article and original motor-vehicle equipment (see headnote 2, part 6B, schedule 6).....	X.....	Free		35% ad val.
791.90		Other.....	.....	Free		
	10	Footwear uppers.....	Pro.			
	20	Other.....	X			
791.91	00	If Canadian article and original motor-vehicle equipment (see headnote 2, part 6B, schedule 6).....	X.....	Free		
		Other:				
791.74		Containing 50% or more by weight of cotton, wool, or man-made fibers, or any combination thereof, or containing 50% or more by weight of textile materials with wool comprising 17% or more by weight of the article.....	.....	6% ad val.	9.6% ad val.(1)	35% ad val.
		Subject to cotton restraints:				
	02	Knit.....(359)	Doz. v Lb.			
		Not knit:				
		Coats and jackets:				
		Men's and boys':				
	12	Knit-type coats and jackets.....(333)	Doz. v Lb.			
	13	Other.....(334)	Doz. v Lb.			
	15	Women's, girls' and infants'.....(335)	Doz. v Lb.			
		Wearing apparel not specially provided for, of leather (con.):				
		Other (con.):				
791.74 (con.)		Containing 50% or more by weight of cotton, wool, or man-made fibers, or any combination thereof, or containing 50% or more by weight of textile materials with wool comprising 17% or more by weight of the article (con.):				
		Subject to cotton restraints (con.):				
		Not knit (con.):				
		Trousers, slacks and shorts:				
	18	Men's and boys'.....(347)	Doz. v Lb.			
	20	Women's, girls' and infants'.....(348)	Doz. v Lb.			
	26	Other.....(359)	Doz. v Lb.			
		Subject to wool restraints:				
	30	Knit.....(459)	Doz. v Lb.			
	40	Not knit.....(459)	Doz. v Lb.			
		Subject to man-made fiber restraints:				
		Knit:				
		Sweaters and cardigans:				
	54	Men's and boys'.....(645)	Doz. v Lb.			
	55	Women's, girls' and infants'.....(646)	Doz. v Lb.			
	58	Trousers, slacks and shorts.....(648)	Doz. v Lb.			
		Coats and jackets:				
		Men's and boys':				
	59	Knit-type coats and jackets.....(633)	Doz. v Lb.			
	60	Other.....(634)	Doz. v Lb.			
	61	Women's, girls' and infants'.....(635)	Doz. v Lb.			
	64	Other.....(659)	Doz. v Lb.			
		Not knit:				
		Coats and jackets:				
		Men's and boys':				
	70	Knit-type coats				

EXHIBIT 2

PROPOSED UNITED STATES ... EXHIBIT 3

TSUS
(1988)

Heading/ Subheading	Stat. Suf.	Article Description	Units of Quantity	Rates of Duty: General	Special	2
4303		Articles of apparel and clothing accessories, of leather or of composition leather:				
4303.10		Articles of apparel:				
4303.10.20	00 1	Of reptile leather	No.	4.7%	Free(A)	35%
4303.10.40		Other		6%		35%
		Coats and jackets:				
	20 1	Men's and boys'	No.			
	40 4	Women's, girls' and infants'	No.			
	80 8	Other	No.			

EXHIBIT 4

	6202		Women's or girls' overcoats, carcoats, capes, cloaks, anoraks (including ski-jackets), windbreakers and similar articles (including padded, sleeveless jackets), other than those of heading 6204:				
			Overcoats, carcoats, capes, cloaks and similar coats:				
(A)	6202.11.00		Of wool or fine animal hair		48.3¢/kg + 21%		48.3¢/kg + 50.5%
		10 8	Women's (435)	doz. / kg			
		20 6	Girls' (435)	doz. / kg			
			Anoraks (including ski-jackets), windbreakers and similar articles (including padded, sleeveless jackets):				
	6202.91		Of wool or fine animal hair:				
	6202.91.10	00 1	Padded, sleeveless jackets (450)	doz. / kg	17%		50.5%
(B)	6202.91.20		Other		48.3¢/kg + 21%		48.3¢/kg + 50.5%
		10 7	Women's (435)	doz. / kg			
		20 5	Girls' (435)	doz. / kg			
			Suit-type jackets and blazers:				
	6204.31		Of wool or fine animal hair:				
	6204.31.10		Containing 20 percent or more by weight of silk or silk waste		7.5%		65%
		10 0	Women's (435)	doz. / kg			
		20 0	Girls' (435)	doz. / kg			
(C)	6204.31.20		Other		48.3¢/kg + 21%		48.3¢/kg + 50.5%
		10 0	Women's (435)	doz. / kg			
		20 0	Girls' (435)	doz. / kg			
	6202.12		Of cotton:				
	6202.12.10	00 7	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 50 percent or more by weight; containing 10 percent or more by weight of down but not containing any other plumage (354)	doz. / kg	4.7%		60%
	6202.12.20		Other		9.5%		90%
			Raincoats:				
		10 3	Women's (335)	doz. / kg			
		20 1	Girls' (335)	doz. / kg			
			Other:				
			Corduroy:				
		25 6	Women's (335)	doz. / kg			
		35 4	Girls' (335)	doz. / kg			
			Other:				
(D)		50 4	Women's (335)	doz. / kg			
		60 2	Girls' (335)	doz. / kg			

PROPOSED UNITED STATES TARIFF SCHEDULE ANNOTATED EXHIBIT 4 (cont'd)

XI
GS-8

Heading/ Subheading	Stat. Suf. & cd		Article Description	Units of Quantity	Rates of Duty		
					General	Special	2
6202 (con.)			Women's or girls' overcoats, carcoats, capes, cloaks, anoraks (including ski-jackets), windbreakers and similar articles (including padded, sleeveless jackets), other than those of heading 6204 (con.):				
			Anoraks (including ski-jackets), windbreakers and similar articles (including padded, sleeveless jackets) (con.):				
6202.92			Of cotton:				
6202.92.10	00	0	Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 50 percent or more by weight; containing 10 percent or more by weight of down but not containing any other plumage.....(334)	doz....v kg	4.7%		60%
			Other:				
6202.92.15	00	5	Garments designed for rainwear.....(335)	doz....v kg	9.6%		37.5%
6202.92.20			Other	.....	9.5%		90%
			Padded, sleeveless jackets:				
	10	6	With attachments for sleeves.....(335)	doz. v kg			
	20	4	Other.....(350)	doz. v kg			
			Other:				
			Corduroy:				
	25	8	Women's....(335)	doz. v kg			
	30	2	Girls'.....(335)	doz. v kg			
			Other:				
	60	5	Women's....(335)	doz. v kg			
	70	3	Girls'.....(335)	doz. v kg			
6204 (con.)			Women's or girls' suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear) (con.):				
			Suit-type jackets and blazers (con.):				
6204.32			Of cotton:				
6204.32.10	00	1	Containing 36 percent or more by weight of flax fibers .(335)	doz....v kg	3%		35%
6204.32.20			Other.....	.....	10%		90%
			Corduroy:				
	10	7	Women's.....(335)	doz. v kg			
	20	5	Girls'.....(335)	doz. v kg			
			Other:				
	30	3	Women's.....(335)	doz. v kg			
	40	1	Girls'.....(335)	doz. v kg			

Duty Comparisons: TSUS vs. HTS

Exhibit 5

			1983	1984	1985	1986	1987*
U.S. Imports:	Total Customs Value:		$217,000	$292,000	$491,000	$339,000	$1,018,000
	Weight:		5,647 lbs.	15,672 lbs.	70,565 lbs.	18,165 lbs.	89,044 lbs.
TSUS Classification							
1. Cotton: 791.74.15:		6.0%	$ 13,000	$ 18,000	$ 29,000	$ 20,000	$ 61.000
HTS:		9.5%	$ 21,000	$ 28,000	$ 47,000	$ 32,000	$ 97,000
HTS:		10.0%	$ 22,000	$ 29,200	$ 49,100	$ 34,000	$ 102,000
	percentage change:	9.5	61.5%	55.5%	62.0%	60.0%	59,0%
	(from TSUS rate of 6%):	10.0	69.0%	62.0%	69.0%	70.0%	67.0%
U.S. Imports:	Total Customs Value:		$ 77,000	$268,000	$268,000	$1,917,000	$2,509,000
	Weight:		2,733 lbs.	20,375 lbs.	14,794 lbs.	149,109 lbs.	178,686 lbs.
2. Wool: 791.7440:		6.0%	$ 5,000	$ 16,000	$ 16,000	$115,000	$ 151,000
HTS: 46.3¢/kg+21%			$ 16,574	$ 60,279	$ 59,107	$433,890	$ 564,417
	. kg (x.4536)		1,240 kg.	9,242 kg.	6,711 kg.	67,636 kg.	37,527 kg.
	. $ (x.463¢)		$ 574	$ 4,279	$ 3,107	$ 31,315	$ 37,527
	. $ (.21)		$ 16,000	$ 56,000	$ 56,000	$402,570	$ 526,890
	percent change:		231%	277%	269%	277%	274%
	% of total value: (effective duty rate):		22%	22.5%	22%	22.6%	22.5%

*cumulative through July 1987

Source: FT 246, U.S. Department of Commerce

EXHIBIT 6

Statistical Note

1. Restraints under the Arrangement regarding International Trade in Textiles may not apply to developing country exports of "hand-loomed and folklore products" which have been certified, in accordance with procedures established by the United States Trade Representative pursuant to international understandings, by an official of a government agency of the country where the products were produced, to have been so made. The importer is required to identify such certified products on the entry summary or withdrawal forms by placing the symbol "F" as a prefix to the appropriate 10-digit statistical reporting number.

2. For the purposes of the Tariff Schedule:

   (a) The term "subject to cotton restraints" means articles in which:

      (i) The cotton component equals or exceeds 50 percent by weight of all the component fibers thereof; or

      (ii) The cotton and any wool or man-made fibers in the aggregate equals or exceeds 50 percent by weight of all the component fibers thereof and the cotton component equals or exceeds the weight of each of the wool and man-made fiber components.

   (b) The term "subject to wool restraints" means articles not provided for in (a) above and in which the wool component exceeds 17 percent by weight of all the component fibers thereof.

   (c) The term "subject to man-made fiber restraints" means articles not provided for in (a) or (b) above and the man-made fiber component, or the man-made fibers and any cotton or wool in the aggregate, equals or exceeds 50 percent by weight of all the component fibers thereof.

   Wool, for purposes of this note, means wool or fine animal hair.

EXHIBIT 7

PROPOSED UNITED STATES TARIFF SCHEDULE ANNOTATED

XI
61-3

Heading/ Subheading	Stat. Suf. & cd	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
6101		Men's or boys' overcoats, carcoats, capes, cloaks, anoraks (including ski-jackets), wind-breakers and similar articles, knitted or crocheted, other than those of heading 6103:				
6101.10.00	00 3	Of wool or fine animal hair.....(434)	doz.... kg	77.2¢/kg + 20%		77.2¢/kg + 54.5%
6101.20.00		Of cotton.....	.....	16.0%		90%
	10 9	Men's.....(334)	doz. kg			
	20 7	Boys'.....(334)	doz. kg			
6101.30		Of man-made fibers:				
(a) 6101.30.10	00 0	Containing 25 percent or more by weight of leather.....(634)	doz.... kg	6%		35%

PROPOSED UNITED STATES TARIFF SCHEDULE ANNOTATED

XI
61-31

Heading/ Subheading	Stat. Suf. & cd	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
6110 (con.)		Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted (con.):				
6110.30		Of man-made fibers:				
(b) 6110.30.10		Containing 25 percent or more by weight of leather.....	.....	6%		35%
		Sweaters:				
	10 4	Men's or boys'.....(645)	doz. kg			
	20 2	Women's or girls'.....(648)	doz. kg			
		Vests, other than sweater vests:				
	30 0	Men's or boys'.....(650)	doz. kg			
	40 8	Women's or girls'.....(650)	doz. kg			
		Other:				
	50 5	Men's or boys'.....(838)	doz. kg			
	60 3	Women's or girls'.....(838)	doz. kg			

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November 6, 1987

Committee on Ways and Means
U.S. House of Representatives
Room 1102, Longworth House Office Building
Washington, D.C. 20515

Attention: Robert J. Leonard, Chief Counsel

Re: Liz Claiborne Accessories, Inc.
Proposed Conversion of the Tariff Schedules of the United States to the Harmonized Commodity Description and Coding System - Treatment of Handbags and Flat Goods

Dear Mr. Leonard:

We are the attorneys for Liz Claiborne Accessories, Inc. and, on its behalf, we are pleased to submit herewith our comments (in an original and five copies), together with summary statements, in connection with the request of the Committee on Ways and Means for written testimony on the proposed implementation of the conversion of the Tariff Schedules of United States to the Harmonized Commodity Description and Coding System ("HS") as found within H.R. 3. The Committee's notice, dated October 26, 1987, invited comments on the broad implications of adopting the HS, as well as the implications and likely effects with respect to particular U.S. industries. Of concern herein is the contemplated tariff treatment of handbags and flat goods in Chapter 42 of the HS, which will have a significant impact the consuming public, importers of travel goods, handbags and flat goods as a whole, and our client.

INTRODUCTION

Liz Claiborne Accessories, Inc., with principal offices at 1441 Broadway, New York, New York, is an importer of handbags and flat goods (e.g., wallets, change purses, etc.) as well as women's wearing apparel accessories such as mufflers, scarves, shawls, gloves, hats and belts. The company, which has filed approximately 1,000 entries of handbags and flat goods thus far in 1987 for gross sales of nearly $100 million, projects gross sales of these articles to exceed $135 million in 1988. Our client's handbags and flat goods (which account for over 70 percent of our client's business) comprise approximately 20 percent of all retail sales of such articles by major department stores in the United States. The majority of handbags and flat goods imported by our client are composed of either leather and textile materials or leather and polyvinyl chloride ("vinyl").

CURRENT AND PROPOSED TARIFF TREATMENT

Under the current Tariff Schedules of the United States ("TSUS"), luggage, handbags and flat goods which are comprised of more than one type of material are classified on the basis of their component material of chief value. General Headnote 9(f)(i), TSUS. Under the proposed United States Tariff Schedule Annotated in the Harmonized System Nomenclature (July 1987 edition), luggage, handbags and flat goods (which are largely confined to chapter 42) are to be classified on the basis of the component material which comprises the outer surfaces of the articles. Where the outer surface of an article consists of more than one material (e.g., leather/vinyl, leather/textile, etc.), tariff classification will be determined by the component material which imparts the "essential character" of the outer surface. HS General Rule of Interpretation ("GRI") 3(b).

The U.S. Customs Service, the agency responsible for the tariff classification of all imported merchandise, has clearly indicated in a letter dated October 27, 1987 to the Chairman of the Committee for the Implementation of Textile Agreements ("CITA") (copy of letter annexed hereto as Exhibit 1) that a determination of the essential character of the outer surface of luggage or related articles will not be based on weight but will be based on a physical measurement of the surface area of the component materials of the outer surface. Presumably, if a textile material (or vinyl) predominates over each other single outer surface material, Customs will consider an article within heading 4202 to have an outer surface of textile materials (or vinyl) for tariff purposes.

SUMMARY OF DISCUSSION

We submit that reliance on a strictly quantitative measurement of outer surface materials to determine the "essential character" of the outer surface flies in the face of the HS concept of "essential character" and is legally insupportable, contravenes the President's guidelines for the conversion of the TSUS to the HS, will have a significant negative impact on importers and retailers of handbags and flat goods and, ultimately, will be severely harmful to consumers. This comment will explain the shortcomings and substantial negative effects of Customs' approach and will suggest amendments to the applicable HS tariff provisions whereby the administrative interpretation thereof will continue current tariff treatment without significant deviation.

DISCUSSION

A. Legal Interpretation of "Essential Character"

The Explanatory Note to GRI 3(b) states that:

> The factor which determines essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods.

The U.S. Customs Service's own "Harmonized System Handbook" (published in August 1986 by the Office of Regulations and

Rulings International Nomenclature Staff to acquaint the trade community with the HS), at page 14, restates the above quoted explanatory note to GRI 3(b), and adds that the essential character of a product has generally been construed to mean "the attribute which strongly marks or serves to distinguish what an article is; that which is indespensable [sic] to the structure, core or condition of the article." Significantly, the Customs Handbook further states, at pp. 14-15, that "[t]he important thing to remember is that it [essential character] bears no relationship to component material in chief value, as such, and cannot be resolved on the basis of any single factor such as weight" (emphasis added).

Thus, Customs itself has previously recognized in a publication intended to provide a view on how the HS is to be interpreted that it is improper to focus on only one criterion in determining essential character. Nevertheless, it appears that Customs contemplates doing just that by focusing only on a quantitative measurement of outer surface materials in connection with the tariff classification of luggage and related products.

The rationale of the Explanatory Note is echoed in the United States Trade Representative's Submitting Report on the Harmonized System Implementation Act of 1987. That report, at page 4, states that "essential character" may be based on such factors as "relative weight, surface material, or some outstanding feature of the product."

Thus, while measurement of the materials used on an exterior surface area may be relevant, it is merely one of several possible factors which should be weighed in determining "essential character". As stated within its letter of October 27, 1987, Customs' approach, therefore, is plainly contrary to its own understanding of the intended operation of GRI 3(b). Customs mechanically applies only one factor (surface area) and thus does away with the fundamental flexibility which the drafters of GRI 3(b) and the explanatory note recognized as necessary to determine "essential character" in a variety of contexts. The fact that Customs addressed only luggage and related products in no way supports its restrictive view of "essential character". Even in this specific industry sector there can be very great differences in styles and features which mandate use of a flexible, case-by-case approach to the determination of essential character.

Customs' stated method for determining "essential character" would be especially inappropriate for handbags and flat goods in which leather has been utilized in addition to other materials such as a textile fiber or vinyl. To illustrate, many companies, including our client, import numerous products which are composed main'y (in a quantitative sense) of a textile material (or vinyl) with areas of reinforcement, trimming and/or straps or handles comprised of leather. Although leather may be present in "limited" amounts in such products, it is nevertheless often integral to the construction, design and marketability of the articles. Because leather is longer-lasting and less prone to fraying than textile materials, and is softer and more pliable than vinyl, it is invariably applied to all critical parts of the article where flexibility and durability are essential, such as stress points (e.g., corners and seams) and weight bearing points (e.g., shoulder strap and handle attachments). Similarly, because shoulder straps and handles are essential to the use of handbags and must withstand the test of time, straps and handles are frequently made of leather.

Thus, leather, though often present in "limited" quantities vis-a-vis textile materials or vinyl, is usually vital to the structure and use of these articles. Consumers, who also prefer the appearance of handbags with leather, recognize these qualities of leather and are willing to pay far more for products with even "limited" quantities of leather. They perceive a distinct difference between vinyl or textile bags with leather trim and such handbags without any leather.

Therefore, solely a quantitative measurement of the outer surface materials is antithetical to determining "essential character" as it improperly ignores the commercial significance ordinarily and usually ascribed to even a relatively small measure of leather. We submit that the term "essential character" should reflect the realities of the marketplace (after all, it is the consumer who is the final arbiter of that term as it is he or she who will ascertain what factors go into the purchasing decision). A determination of the essential character of handbags and flat goods should properly take into account the multitude of factors which consumers consider in the marketplace, such as the role a component material plays in the use of the bag, how it affects the appearance of the article, etc.

B. Contravention of Presidential Directive and Impact on Consumers

Determining "essential character" by a strictly quantitative measurement of outer surface materials not only is improper from a legal standpoint, but would result in duty rate increases of up to one hundred (100) percent and the application of quantitative restrictions to many handbags and flat goods not previously subject to quotas. Such results are in contravention of the President's guidelines for the conversion of the TSUS to the HS and would severely harm the importing community, retailers and consumers.

The President's guidelines for the conversion to the HS state that the International Trade Commission should simplify the U.S. tariff structure to the extent possible without rate changes significant for U.S. industry, workers or trade and should avoid, to the extent practicable and consonant with sound nomenclature principles, changes in the rates of duty on individual products. (48 F.R. 34822 of August 1, 1983.) As discussed more fully below, given the changeover from TSUS classification practice based upon the concept of component material in chief value to an HS classification practice based on "essential character", use of the "essential character" rule envisioned by the U.S. Customs Service will lead to results in contravention of the spirit of the President's guidelines.

Leather is a component material which is traditionally of much greater value than most textile materials or vinyl. As leather is so costly, when it is found even in relatively limited amounts in handbags or flat goods (e.g., in areas of reinforcement, trimming and/or as straps or handles), the value of the leather in the handbags or flat goods generally exceeds the value of the textile fibers or vinyl. As a result, under the TSUS, these items are classified as handbags or flat goods "of leather" (i.e., in chief value of leather) with duty rates of between 8 and 10 percent ad valorem and are exempt from quotas.

However, if a determination of "essential character" under the HS is based on a strictly quantitative measurement of the

outer surface materials, as the U.S. Customs Service intends, these same articles will undoubtedly be classified as handbags or flat goods (i.e., articles of a kind normally carried in the pocket or in the handbag) "with outer surface of plastic sheeting or of textile materials", as those materials will exceed leather in surface area. In the case of the "plastic sheeting" provisions, duty will usually be assessed at the much higher rate of 20 percent ad valorem. In the instance of classification under the "textile materials" provisions, these articles will be subject to duty rates of up to 20 percent ad valorem and, perhaps even more significantly, will come under quotas though they are exempt from quantitative restrictions under the TSUS. As quota costs are usually quite substantial and are usually dutiable, overall duties paid on these goods will substantially increase.

Although the analogous descriptions in the TSUS and HS carry equivalent duty rates and treat items consistently with respect to the application of quotas (e.g., handbags "of leather", valued not over $20.00 each, are dutiable at the rate of 10 percent ad valorem and are quota exempt under the TSUS, while handbags valued not over $20.00 each, "with outer surface of leather" are also dutiable at the rate of 10 percent ad valorem and quota exempt under the HS), Customs' method of determining essential character of the outer surface will mean that a handbag in chief value of leather (a "leather handbag" under the TSUS) will often be classified as something other than a handbag "with outer surface of leather" under the HS, with the result being a substantial increase in duties paid. Thus, the result will be the effective contravention of the President's guideline that changes in the duty rates on individual products should be avoided.

Moreover, these duty increases, like any cost of purchase, will inevitably be passed along the distribution cycle, with consumers ultimately being forced to pay higher retail prices as a result. The fact that handbags and flat goods traditionally have very high mark-ups at retail will further magnify the negative effects on consumers and have a generally inflationary impact.

C. Proposed Amendment

To avoid significant increases in duties paid by importers and, consequently, in prices paid by consumers at the retail level for such articles in chief value of leather but comprised mainly of textile or vinyl materials, we propose that handbags and flat goods having an outer surface area of 20 percent or more of leather 1/ be subject to the applicable tariff rate and quota treatment for articles currently classified as being "of leather" under the TSUS. This proposal can be accomplished by amending current chapter 42 subheadings for articles with outer surfaces of plastic sheeting or of textile materials. These new provisions would apply to articles with outer surface area (for handbags, including shoulder straps and handles) of not less than 20 percent leather, should be quota exempt and would carry the rates currently applied to such products which are in chief value of leather. The relevant subheadings in the HS nomenclature for handbags and flat goods would appear as follows:

1/ Articles with a surface area of 20 percent or more of leather are invariably in chief value of leather.

Heading/ Subheading	Article Description	
4202.22	Handbags, whether or not with shoulder strap, including those without handles:	
	With outer surface of plastic sheeting or of textile materials:	
	With outer surface area (including shoulder straps and handles) of not less than 20 percent leather:	
	Valued not over $20 each . . .	10%
	Valued over $20 each	9%
	Other:	
	With outer surface of plastic sheeting	20%
	With outer surface of textile materials:	[various rates depending upon composition]
	* * *	
4202.32	Articles of a kind normally carried in the pocket or in the handbag:	
	With outer surface of plastic sheeting or of textile materials:	
	With outer surface area of not less than 20 percent leather	8%
	Other:	
	With outer surface of plastic sheeting:	
	Of reinforced or laminated plastics	12.1¢/kg +4.6%
	Other	20%
	With outer surface of textile materials:	[various rates depending upon composition]

Nor is this suggestion unique or unprecedented. Many such breakouts have already been incorporated into the wearing apparel chapters of the HS[2/] in an effort to continue current tariff treatment, ensure duty neutrality and avoid quota migration. Absent these changes, these results would otherwise not have accompanied the conversion from the chief value system of the TSUS to the chief weight system of the HS. The above proposal for handbags and flat goods in chapter 42 maintains the current duty rate and quota treatment and, therefore, fully satisfies the President's guidelines and avoids significant negative impacts on both the importing community and consumers.

CONCLUSION

We trust that the foregoing analysis is explanatory of a major problem area in Chapter 42 and will be duly considered by the Committee. Naturally, we stand ready to respond to any questions the Committee may have with respect to this issue.

On behalf of our client, we thank the Committee for the opportunity to submit views on this very important legislation which will have a substantial impact on our client as well as a significant number of U.S. handbag and flat goods importers and retailers.

Respectfully submitted,

SIEGEL, MANDELL & DAVIDSON, P.C.

Siegel, Mandell & Davidson, P.C.

Attorneys for Liz Claiborne
Accessories, Inc.

Of Counsel:
Steven S. Weiser, Esq.
Paul A. Horowitz, Esq.

2/ Special breakouts exist in chapters 61 and 62 for certain garments consisting of blended fabrics. Thus, for example, certain garments containing 23 percent or more by weight of wool, 30 percent or more by weight of silk, or 36 percent or more by weight of flax fibers are treated as wool, silk or flax products for duty purposes. These percentages reflect the minimum amounts of those fibers ordinarily present in chief value-wool, chief value-silk and chief value-flax garments, respectively. In general, quota applicability follows tariff treatment.

— EXHIBIT 1 —

DEPARTMENT OF THE TREASURY

U.S. CUSTOMS SERVICE

WASHINGTON, D.C. 20229

27 OCT 1987

CLA-2 CO:R:CV:G
081165 PR

James A Babb, Chairman
Committee for the Implementation
of Textile Agreements
International Trade Administration
U.S. Department of Commerce
Washington, D.C. 20230

Dear Mr. Babb:

This is in reply to your inquiry of August 28, 1987, asking certain questions pertaining to the Harmonized System. Our response to each of your questions follows.

Question: For garments containing more than one textile fiber or type of fabric, will Customs consider only the outer shell in determining chief weight, or will they consider all components?

Answer: The Customs Service has taken the position in a memorandum of August 31, 1987, file 080817, copy enclosed, that most imported garments will be classified according to their outer shell fabric and that linings, trim, parts, and accessories will not normally be considered. In accordance with your request, and pursuant to our normal procedures, Customs will contact your office prior to issuing any ruling holding that the classification of a garment is governed by something other than its outer shell, and we will consider anything your office wishes to present on the matter.

Question: How will Customs interpret notes 5(a) in Chapter 61 and 4(b) in Chapter 62 regarding "articles for young children of a body height not exceeding 86 centimeters"?

Answer: You indicate that your trade sources, an analyst for the International Trade Commission, and our own National Import Specialist all agree that "of a body height not exceeding 86 centimeters" translates into the existing commercial size range of 0 to 24 months. We are not completely in agreement with this position since not all manufacturers or retailers utilize the same specifications in the production of their apparel products. However, we are cognizant that babies, like adults, do not have uniform body measurements. Therefore, we interpret "86 centimeters" as

meaning an age level of 24 months. Accordingly, where a size range of 0 to 24 months realistically reflects the normal ages of the intended wearers, such a size range will be accepted by Customs as meeting the 86 centimeter criterion. To do otherwise would, in our view, promote nonuniformity and uncertainty in the tariff treatment of "babies' garments".

Question: How will Customs interpret the tariff provisions in Chapter 42 which cover luggage "With outer surface of textile materials"?

Answer: With respect to the classification of luggage and related products "with outer surface of textile materials", we agree that a chief weight test is not appropriate. It is our position that the governing factor in determining what constitutes "outer surface of textile materials" should be the material which gives that surface its essential character. As you suggest, it appears that with luggage and related products, a determination of essential character can be based on a measurement of the materials of the outer surface. For example, in order for an item of luggage or a related product to be considered as having an outer surface of textile materials, the textile material should predominate over each other single outer surface material.

Question: Will Customs issue a revised set of category guidelines any time soon?

Answer: Customs is currently working on a revision to our Textile and Apparel Category Guidelines. Our goal is to have the revision ready for distribution January 1, 1988.

Sincerely,

John Durant
Acting Director
Classification and Value Division

Enclosure

November 6, 1987

Mr. Robert J. Leonard
Chief Counsel, House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Leonard:

The Los Angeles Department of Water and Power (LADWP) and the Southern California Edison Company (SCE) appreciate the opportunity to submit our comments on the draft legislation implementing the Harmonized Commodity Description and Coding System (Harmonized System). We understand that the House and Senate Conferees on the comprehensive trade bill, HR 3, have tentatively agreed to incorporate the Harmonized System implementing legislation into HR 3.

The Harmonized System once implemented will establish a harmonized commodity description and coding system for a new Tariff Schedule. It is our understanding that it is Congress' and the Administration's intent that the conversion to the Harmonized System be as trade neutral as possible. We fully agree with this approach. However conversion to the Harmonized System will result in a change in the current exempt status of electricity relative to U.S. trade laws. This change could seriously threaten our present ability to import economic and renewable energy from Canada. Current electricity trade between the U.S. and Canada, governed in part by existing bilateral considerations and unrestricted by application of the trade laws, has offered significant benefits to both sides. These benefits have accrued because of this historical treatment of electricity by the U.S. Customs Service.

Because of the above concerns, the trade bill conferees from the Senate Finance Committee, at the urging of Senator Moynihan and others, have agreed to restate in the Statement of Managers accompanying HR 3 Congress' intent to preserve the traditional treatment of electricity under the U.S. trade laws and to insure that changes in law necessitated by the adoption of the Harmonized System, are in fact, trade neutral.

We would deeply appreciate your support of this effort to preserve the historical treatment of electricity during conference on HR 3 and the legislation implementing the Harmonized System.

Sincerely,

Michael R. Peevey
Executive Vice President
Southern California Edison Company

Norman E. Nichols
Assistant General Manager-Power
Los Angeles Department of Water and Power

M & L International
7700 Gross Point Road
Skokie, IL 60077
(312) 966-1212

November 4, 1987

Robert J. Leonard, Chief Counsel
House Committe on Ways and Means
1102 Long Worth Building
Washington D. C. 20515

Mr. Robert J. Leonard, Chief Counsel:

I am in favor of the Haromonized System receiving priority handling for January 1, 1988 implementation.

Adoption of the HS on a world wide basis would truly be to the benefit of traders and governments.

The HS will take effect January 1, 1988 for participating nations and what better time for the United States to participate.

Sincerely,

Kurt Gutfreund, President
KURT GUTFREUND
1064 SHERIDAN ROAD
WILMETTE, IL. 60091

35 ADDITIONAL IDENTICAL LETTERS WERE RECEIVED FROM EMPLOYEES OF THE COMPANY.

Montgomery Ward Importing, Inc.
Montgomery Ward Plaza 3-A
Chicago, Illinois 60671
a Mobil company

312-467-3000

November 6, 1987

The Honorable Daniel Rostenkowski
U. S. House of Representatives
Washington DC 20515

Attention: Trade LA

Dear Congressman:

RE: HARMONIZED TARIFF SYSTEM

The Harmonized Tariff System, which is currently part of the Omnibus Trade Bill, represents a significant change in the movement of imported merchandise into the U.S. Its intended implementation on January 1, 1988, has resulted in additional time and expense to educate and convert our handling of imported merchandise.

To delay its implementation past January 1, 1988, will create additional work burdens, needless confusion throughout the importing channels and potential litigation over interpretation of the interim system being considered by the Commerce Department, as well as numerous problems with quota availability, until the Harmonized System is officially implemented.

On behalf of Montgomery Ward, we ask that you act to move the Harmonized Tariff System through Congress so it can be enacted on January 1, 1988.

Sincerely,

MONTGOMERY WARD IMPORTING, INC.

William H. Daly
Import Operations Manager

"A National Association of International Scope"

National Customs Brokers & Forwarders Association of America, Inc.

5 World Trade Center, Suite 9273/ New York, NY 10048/(212) 432-0050

Arthur J. Fritz, Jr.
President
John Hammon, CAE
Executive Vice President

November 9, 1987

Honorable Dan Rostenkowski
Chairman, Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

The National Customs Brokers and Forwarders Association of America (NCBFAA) strongly supports the Committee's action to implement the Harmonized System by January 1, 1988. Agreement reached by the conferees on H.R.3 to expand the provisions of both versions of the trade bill was both highly desirable and very necessary in light of the fact that we are rapidly approaching that date for implementation. Now, NCBFAA urges you to take additional steps towards implementation -- steps that we view as critical to an orderly transition.

As noted by the Committee, the Harmonized System creates an entirely new international language, a standardized product nomenclature, that will greatly facilitate our international trade. It will provide uniformity in the classification, description and coding of articles in trade for customs tariff and statistical nomenclatures for imports and exports. From our perspective, as an industry responsible for the orderly movement of goods for import and export, the Harmonized System as a concept is so completely logical and compelling that the issue for us has always been: how can we best prepare ourselves as customs brokers and forwarders to effect what could be a very difficult transition? From the time that our government began to make international commitments to implement HS by January 1, 1988, we have undertaken an exhaustive program to educate our members and others in the trade community so that we could meet this deadline. Starting in early summer, in conjunction with U.S. Customs Service, NCBFAA has sponsored 30 3-day intensive seminars for over 2300 professional customs brokers and forwarders, as well as other interested practitioners from the trading community. In short, NCBFAA has undertaken a "crash course" in getting ready and committed in unprecedented fashion, an extraordinary amount of its resources to be as ready as we can be, for the implementation of HS.

Yet even with preparation of this order, more is needed at the point that the date for implementation becomes absolutely certain. Like the U.S. Customs Service, our industry must use all available time prior to January 1, 1988 for a conversion that will be very expensive in time and cost. For example, just as we have automated rapidly to keep pace with the demands of a new trading environment, we must now develop and install entirely new software systems for computerized operations. These hinge on Customs decisions and data that have yet to be assembled. Cost and time-sensitivity however, preclude this preparation in the absence of an absolute commitment to implement HS on a date certain.

To date, we have not had this commitment. While January 1, 1988 has been our target, we have been uncertain whether the legislative process could meet this objective. Until the conferees agreed to by-pass the formal processes for implementing international agreements and expand the trade bill provisions to permit a January 1 start-up, NCBFAA had substantial and justifiable doubts. Your action in conference has been highly beneficial to avoiding the chaos that may yet ensue. Now, we are left with the question: Will you pass the trade bill in time? If the Customs Service and the trading community prepare for January 1 and legislation is not passed until next session we face huge losses to small businesses that simply cannot afford a false-start. If we wait for the trade bill, there simply will not be enough time to do what is required. And, if you attempt implementation later next year, our negotiators will lose the statistical data that is so crucial to the nation's success in the Uruguay Rounds. Truly, day-by-day, the business community moves deeper and deeper into this dilemma.

As we indicated, the conferees action was a necessary first step. We now urgently seek an iron-clad commitment to secure passage by January 1, 1988, a commitment that needs to be given as soon as possible. One suggestion is a joint statement by the Chairmen of the House Ways and Means Committee and Senate Finance Committee that you are committed to passage of the Harmonized System this year and will take the necessary legislative steps to ensure this result. This implies that Congress would be willing to implement HS on a separate vehicle should it become clear that the trade bill will be held over to the 2d Session. And, that of course is our final suggestion - that other legislative alternatives be employed, if necessary.

We well understand that there are many factors which brought us to this present circumstance. Our eyes, however, are trained towards seeking a solution to a potential disaster for our trading processes and, more immediately, to our businesses. We appreciate the steps you have taken thus far and now urge you to go further and provide us the certainty that we must have. Your continuing cooperation and fine work give us optimism for resolution of this problem.

Sincerely,

Arthur J. Fritz, Jr.

Arthur J. Fritz, Jr.
President

"A National Association of International Scope"

National Customs Brokers & Forwarders Association of America, Inc.
5 World Trade Center, Suite 9273/New York, NY 10048/(212) 432-0050

Arthur J. Fritz, Jr.
President
John Hammon, CAE
Executive Vice President

October 21, 1987

The Honorable Sam Gibbons
2204 Rayburn House Office Building
House of Representatives
Washington, D. C. 20515

Dear Representative Gibbons:

Members of the National Customs Brokers & Forwarders Association of America throughout the United States and the thousands of importers and exporters whom they serve are very much concerned about U. S. implementation of the Harmonized Description and Coding System (the Harmonized System).

Japan, Canada, the European Community and many other countries have already taken action to implement the Harmonized System, effective January 1, 1988. Our country will be at a serious disadvantage if Congress fails to pass legislation adopting this new system at the same time as most of our important trading partners.

Clearly, the "fast track" provisions in the Trade Bill do not permit sufficient time to allow the U.S. to implement the Harmonized System along with the rest of the world on January 1. Congress must therefore act quickly to implement the Harmonized System through the Trade Bill or, if passage is not imminent, to enact separate legislation providing for U.S. implementation.

Our industry, in cooperation with the U.S. Customs Service, has already spent many thousands of dollars preparing for implementation of the Harmonized System, and in training our personnel to use it. However, still more training will be needed after legislation is passed, and we must have sufficient time after enactment to re-program our computers and refine our internal procedures to accommodate the new system.

For these reasons, we feel that it is imperative that Congress take action now to enact implementing legislation. To delay this action until November or, worse yet, December, would leave insufficient time for the international trade community to properly prepare for an orderly transition to the new system.

We strongly urge you to work with the House and Senate leadership and with your colleagues on the two committees of jurisdiction -- House Ways and Means and Senate Finance -- to ensure that this non-controversial but much needed legislation is passed as quickly as possible.

Sincerely,

John Hammon

John Hammon, CAE
Executive Vice President

NATIONAL EXPORT TRAFFIC LEAGUE INC.

(EXPORT – IMPORT)

294 FIFTH AVENUE, NEW YORK, N.Y. 10001 – OXford 7-6886

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Coleman Corp.

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Scallop Lubricants & Chemicals

Anthony Vasil
Port of Jacksonville Authority

John S. Zigo
Consultant

November 13, 1987

Hon. Dan Rostenkowski, Chairman
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Rostenkowski:

This submission is made on behalf of the National Export Traffic League with respect to the current impasse in Congress on the trade bill, H.R. 3/S.1420. The National Export Traffic League is an organization whose members are representative of a broad range of international business interests including industrial and trading companies, domestic manufacturers, ocean carriers, freight forwarders, bankers, and insurers of other companies serving those involved with international trade.

Our specific concern with the impasse on the trade bill is the fact the new Harmonized System for tariff classification which is scheduled to go into effect on January 1, 1988, is part of the overall trade bill. If the trade bill is not enacted or is vetoed, then the

Harmonized System will not go into effect on January 1 unless the Harmonized System section is severed from the trade bill.

In view of the many questions and problems surrounding the trade bill, we believe that the non-controversial and universally supported Harmonized System should be removed from the trade bill and enacted immediately by Congress. We understand that there is a move underway which would accomplish this goal by removing the Harmonized System provisions from the trade bill and attaching it as part of the Budget Reconciliation Act, and we applaud that effort.

We hope that the various committees of Congress including the Conference Committee considering the trade bill will do everything within their power to ensure that this important piece of legislation, the Harmonized System, will be law in the beginning of 1988. The Harmonized System is deserving of the wide support that it has received from all segments of trade and industry in the United States and its immediate passage is most heartily urged by our organization.

Very truly yours,

Patrick D. Gill, Chairman,
Legislative Committee

STATEMENT OF STANLEY NEHMER, PRESIDENT

ECONOMIC CONSULTING SERVICES INC.

ON BEHALF OF
THE LUGGAGE AND LEATHER GOODS MANUFACTURERS OF AMERICA, INC.
THE INTERNATIONAL LEATHER GOODS, PLASTICS, AND
NOVELTY WORKERS' UNION, AFL-CIO
FOOTWEAR INDUSTRIES OF AMERICA
THE AMALGAMATED CLOTHING AND TEXTILE WORKERS UNION, AFL-CIO
THE WORK GLOVE MANUFACTURERS ASSOCIATION

Re: Omission of Important Language on Leather Products in "General Notes"

In its October 26, 1987 press release, the House Committee on Ways and Means requested written comments concerning the proposed conversion of the Tariff Schedules of the United States (TSUS) into the Harmonized Commodity Description and Coding System (HS). In response to this request, I am submitting these comments on behalf of several of our clients: the Luggage and Leather Goods Manufacturers of America, Inc.; the International Leather Goods, Plastics, and Novelty Workers' Union, AFL-CIO; Footwear Industries of America; the Amalgamated Clothing and Textile Workers Union, AFL-CIO; and the Work Glove Manufacturers Association.

We have discovered a very serious error in the HS. An important paragraph concerning products that are not eligible to receive duty-free treatment under the Caribbean Basin Economic Recovery Act (CBERA) has been omitted in the "General Notes" section of the HS. This paragraph is in the Tariff Schedules of the United States, and is required by law to be in the HS as well.

Specifically, page 6 of the "General Notes" of the HS is missing the underlined portion of the following text, which is taken from the "General Headnotes" of the 1987 edition of the TSUS:

"3. Rates of Duty.

***

(e) Products Eligible for Special Tariff Treatment

***

(vii) Products of Countries Designated as Beneficiary Countries for Purposes of the Caribbean Basin Economic Recovery Act (CBERA)

***

(D) Articles provided for in an item for which a rate of duty appears in the 'Special' column followed by the symbol 'E*' in parentheses shall be eligible for the duty-free treatment provided for in subdivision (e)(vii) of this headnote, except--

***

(4) <u>footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel not designated, at the time of the effective date of the CBERA, as eligible articles for purposes of the GSP</u>."

In addition to its mention in the TSUS, the exemption from duty-free treatment for leather-related products can also be found in Public Law 98-67, the law that implements the Caribbean Basin Initiative. There can thus be no reason, other than an unintentional error, for the omission in the HS of the language noted above.

This exemption from duty-free treatment was included in the law because of the substantial impact imports of footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel have had on the domestic industries. The need for the exemption continues today, and in some cases is even more vital than it was at the time the law was enacted.

This obvious error in the Harmonized System must be corrected before the HS goes into effect. If it is not, the result could be a flood of imports of these products from Caribbean Basin countries in any interim period between the implementation of the HS and the correction of this error. We therefore request that the Committee on Ways and Means add the language set forth above to the Harmonized System's "General Notes" before the implementing legislation is acted on by the House of Representatives.

Comments of the New York Power Authority on the Proposed Implementation of the U.S. Tariff Schedules into the Harmonized Commodity Description and Coding System

The New York Power Authority supports the provision contained in H.R.3, the Trade and International Economic Policy Reform Act of 1987 which converts the U.S. Tariff Schedules (TSUS) into the nomenclature structure of the Harmonized Commodity Description and Coding System.

In addition, the Power Authority supports the provisions in both the House and Senate Bill which amend the current law to provide for the "fast track" implementation of the Harmonized System.

However, under the current provisions in the House and the Senate bills, electricity, which has historically been exempt from the Tariff Schedules, would be removed from the list of intangibles and reclassified as a dutiable good, subject to tariff treatment.

The extensive studies and commentary accompanying the conversion proposal indicate that the potential impact of the reclassification of electricity on U.S. consumers has been inadvertantly overlooked.

Language has been offered by Senator Moynihan for consideration by the Conference Committee which would remedy this situation by making clear the Congressional intent to preserve the historical trade practices with respect to electricity byclassifying electricity under the Harmonized System for data keeping purposes only. The New York Power Authority supports the inclusion of this clarifying language to the trade legislation and urges the members of the Conference Committee to adapt Senator Moynihan's proposal, which has been reviewed and supported by the Administration, in the final version of the Legislation.

BOGLE & GATES

LAW OFFICES

TERRY L. LEITZELL

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One Thomas Circle, N.W.
Washington, D.C. 20005

(202) 293-3600
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Fax: (202) 293-1825

Seattle
Anchorage
Bellevue
Portland
Tacoma
Yakima

November 9, 1987 16966/34442

Honorable Dan Rostenkowski
Chairman, Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing in response to the Committee's request for written comments on the proposed implementation in the trade bill of the Harmonized Commodity Description and Coding System (Harmonized System). These comments are submitted on behalf of the Northwest Apparel and Textile Association (NATA).

NATA is a coalition of business, labor and elected officials formed to protect the interests of the fashion apparel and outerwear industries of the Pacific Northwest. NATA is a leader in fighting restrictive legislation such as the textile and apparel bill and in supporting fair trade. Our members include all of the major apparel importers in the Northwest and many related interests such as transportation and retailers.

NATA generally supports the implementation of the Harmonized System on a timely and well-coordinated basis within the United States Government. Consequently, we support direct implementation through legislation rather than simply putting the agreement into the trade agreement fast-track procedures. If necessary for timely implementation, we also support the passage of the Harmonized System implementing legislation as separate, free-standing legislation in advance of the passage of the trade bill.

Textile and apparel trade is subject to an immense array of tariffs, quotas and interpretations that result in a highly complex system. We are concerned that the implementation of the Harmonized System could cause confusion in textile and apparel trade if adequate coordination does not exist among the Executive Branch agencies. The Office of the United States Trade Representative has been negotiating bilateral agreements on the textile and apparel quota system to convert quota categories into the new nomenclature of the Harmonized System. Although all of those agreements have not been completed, we understand that the Executive Branch intends to implement the new quota category system on January 1, 1988. We believe that it would be desirable to implement the Harmonized System at the same time as the quota categories are implemented. Although most quota categories will not change for apparel imports, we simply support the implementation schedule that causes the least confusion in the trade.

We appreciate the Committee's attention to the implementation of the Harmonized System and recommend close consultation with the Executive Branch. We urge you and will urge the Administration to avoid embroiling the Harmonized System implementation in the political negotiations on the trade bill. The conversion of U.S. tariffs and quotas from one system to another is difficult, complex, and highly technical. The uncertainty resulting from such negotiations will produce confusion for businessmen engaged in trade. The prospects for a successful trade bill will not be enhanced by the possible use of the Harmonized System implementation as leverage.

Sincerely,

Terry L. Leitzell
Washington, D.C. Representative

NWPPA
Northwest Public Power Association

9817 N.E. 54th Street P.O. Box 4576 Vancouver, Washington 98662-0576
(206) 254-0109 (503) 289-9411

STATEMENT SUBMITTED ON BEHALF OF THE
NORTHWEST PUBLIC POWER ASSOCIATION BY
NORMAN C. JACOX, GENERAL MANAGER

As an organization representing 156 publicly and cooperatively owned electric utilities in nine states, the Northwest Public Power Association is interested in the importation of Canadian electricity. We are concerned that the shift to the Harmonized System not be interpreted as allowing imported electricity to be treated in a manner different than its treatment prior to the conversion.

From our understanding, a nomenclature conversion, such as the shift from the Tariff Schedule of the United States ("TSUS") to the new Harmonized Tariff System ("HTS"), is designed to be trade neutral. Permitting such a shift to result in the reclassification of a good, thereby allowing it to be treated and taxed differently, would be unfair. This is especially true where there have been no congressional hearings -- nor any consideration whatsoever -- of the need for, or potential impact of, reclassifying the good.

Our concern is particularly true in the case of electricity. For more than half a century, electricity has been considered an intangible and outside the scope of the remedial trade laws of the United States. Congress has yet to consider the necessity of treating imported electricity as part of the TSUS despite the myriad of trade law changes made over the years.

We understand that the Senate Finance Committee and the House Ways and Means Committee conferees have continued that tradition even as they have embraced the switch to the HTS. The conferees have decided, after a request by our European trading partners to the Administration, to classify electricity as a good, but to do so only for the purposes of information collection. The conferees have agreed to make explicit that despite this reclassification, electricity will still not be subject to our remedial trade laws.

We endorse the actions of the trade conferees believing their decision to be sound and in keeping with 50 years of American trade laws. We urge the entire Congress to accept the conferees' recommendation.

HENRY J. NOWAK
33d District, New York

COMMITTEES:
PUBLIC WORKS AND TRANSPORTATION
CHAIRMAN:
SUBCOMMITTEE ON WATER RESOURCES
SCIENCE, SPACE, AND TECHNOLOGY

Congress of the United States
House of Representatives
Washington, DC 20515

WASHINGTON OFFICE:
2340 Rayburn House Office Building
Washington, DC 20515
(202) 225-3306

DISTRICT OFFICE:
U.S. Courthouse
Room 212
Buffalo, NY 14202
(716) 853-4131

October 26, 1987

The Honorable Sam Gibbons
Chairman
Subcommittee on Trade
1136 Longworth HOB
Washington, D.C. 20515-6354

C00197

Dear Chairman Gibbons:

Enclosed please find a copy of a self-explanatory letter I received from the Buffalo Customhouse Brokerage Co., Inc. in the Congressional District I am privileged to represent.

Customhouses as well as other interests are reportedly anxious to participate in the Harmonized System, but there is concern that there would be insufficient time for an orderly transition.

I would take this opportunity to urge you and my fellow conferees to act expeditiously to include implementing language in the trade bill and to move this legislation out of conference.

With best wishes and kindest regards,

Sincerely,

HENRY J. NOWAK
Member of Congress

THE BUFFALO CUSTOMHOUSE BROKERAGE CO., INC.
Peace Bridge Plaza Warehouse
Buffalo, New York 14213
(716) 884-1554
TELEX 510-600-0388
FAX 716-884-5703

OCT 20 1987

October 16, 1987

The Honorable Henry Nowak
U.S. House of Representatives
Washington, DC 20515

Re: Implementation of Harmonized System

Dear Congressman Nowak:

As a United States Customs Broker involved in international trade, we are very much concerned about U.S. implementation of the Harmonized Description and Coding System (the Harmonized System).

Japan, Canada, the European Community and many other countries have already taken action to implement the Harmonized System, effective January 1, 1988. Our country will be at a serious disadvantage if Congress fails to pass legislation adopting this new system at the same time as most of our important trading partners.

Clearly, the "fast track" provisions in the Trade Bill do not permit sufficient time to allow the U.S. to implement the Harmonized System along with the rest of the world on January 1. Congress must therefore act quickly to implement the Harmonized System through the Trade Bill or, if passage is not imminent, to enact separate legislation providing for U.S. implementation.

The Brokerage Community, in cooperation with the U.S. Customs Service, has already spent many thousands of dollars preparing for implementation of the Harmonized System, and in training our personnel to use it. However, still more training will be needed after legislation is passed, and we must have sufficient time after enactment to re-program our computers and refine our internal procedures to accommodate the new system.

For these reasons, we feel that it is imperative that Congress take action now to enact implementing legislation. To delay this action until November or, worse yet, December, would leave insufficient time for the international trade community to properly prepare for an orderly transition to the new Harmonized System.

We strongly urge you to work with the House and Senate leadership and with your colleagues on the two committees of jurisdiction -- House Ways and Means and Senate Finance -- to ensure that this non-controversial but much needed legislation is passed as quickly as possible.

Sincerely,

THE BUFFALO CUSTOMHOUSE
BROKERAGE CO., INC.

Darlene A. Liskiewicz

Darlene A. Liskiewicz

PACIFIC COAST COUNCIL OF CUSTOMS BROKERS AND FREIGHT FORWARDERS ASSN, INC.

Reply to: (202) 467-5900

November 6, 1987

TO: George Weiss, Ways & Means Committee
U.S. House of Representatives

FROM: Peter Friedmann, Counsel, Pacific Coast Council

SUBJECT: Harmonized System Implementation

Attached please find a petition of 248 customs brokers and freight forwarders (as well as others involved in international trade) who seek prompt implementation of the Harmonized System. Please advise should you need additional information. Persons who signed the petition are residents of California, Oregon, Washington, Colorado, Idaho primarily.

Attachment

PACIFIC COAST COUNCIL OF CUSTOMS BROKERS AND FREIGHT FORWARDERS ASSN., INC.

P.O.Box 280205
Reply to: San Francisco, CA 94128

23 October, 1987

The Honorable Lloyd Bentsen
Chairman, Senate Finance Committee
United States Senate
Washington, DC 20510

The Honorable Dan Rostenkovski
Chairman, House Ways and Means Committee
United States House of Representatives
Washington, DC 20515

Dear Sirs:

As members of the international trade industry, we have gathered here in San Diego at WESCCON'87, our annual cargo conference, and are very much concerned about U.S. implementation of the Harmonized System. In the Western States our member firms employ over 7000, and our associates (Ports,carriers,stevedores, etc.) employ over 250,000 who are directly involved in international trade.

Japan, Canada,the European Community, & 51 other countries have already taken action to implement the Harmonized System on 1 January,1988. Our country will be at a serious disadvantage if Congress fails to pass legislation adopting this new system at the same time as most of our important trading partners.

The Harmonized System will enhance U.S. Customs revenue collecting ability. It will improve the American export position. It will greatly improve the efficiency & effectiveness of the world trade information system by providing better trade statistics, by facilitating the use of electronic transactions and by allowing uniformity of forms at a national and international level.

Clearly, the "fast track" provisions in the Trade Bill do not permit adequate time to allow the U.S. to implement the Harmonized System along with the rest of our trading partners on January 1. Congress must therefore act quickly to implement the Harmonized System through the Trade Bill or, if passage is not imminent, to enact separate legislation providing for U.S. implementation on January 1, 1988.

Our industry, in cooperation with U.S. Customs Service has devoted thousands of man-hours preparing for implementation, and in training our personnel to use it. The exporters and importers, who trade with the countries that will implement the Harmonized System, have likewise invested effort and money in preparation. They will be placed at a serious disadvantage in world markets if the U.S. does not implement the Harmonized System on January 1. If delayed it could increase our Trade deficit and further weaken our trade position.

For these reasons, we feel that it is imperative that Congress take action now to enact implementing legislation.

Respectfully yours,

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11	[illegible]	Geo. S. Bush Co. Inc	SEATTLE WA.
12	[illegible]	P.S. Clearance Co.	Inglewood, Cal.
13	[illegible]	Truck Insurance	Los Angeles
14	[illegible]	Rodolfo Canal Inc	Los Angeles
15	[illegible]	Hoyt Shipston Inc.	San Francisco
16	[illegible]	American Customs Brokers Inc	Honolulu, HI
17	STEVE STONEHOUSE	SHREVE & HAGS, INC.	SAN DIEGO, CA.
18	JOHN E BRADY	BILL WHITE, INC	LOS ANGELES CA
19	JOHN PETERSON	WAYNE M. WITHROW & CO.	LOS ANGELES CA
20	[illegible]	MAERSK LINE AGENCY	SAN DIEGO, CA
21	[illegible]	NORMAN KRIEGER INC	Los Angeles CA
22	[illegible]	Columbia Shipping	Los Angeles, Ca

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26	[illegible]	[illegible]	L.A
27	[illegible]	Customs	SF
28	IVAN JOCIC	APL	SF
29	[illegible]	STAL	LONG BEACH
30	[illegible]	A.J. Fritz	Los Angeles
31	[illegible]	Fritz Meyers & Co Inc	Rego Park, N.Y.
32	[illegible]	R E Landuser	Seattle Wa
33	[illegible]	Trade Data	Houston, TX
34	[illegible]	Jessie M Pastrana	San Diego, Cal
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36	[illegible]	PORTER INTERNATIONAL, INC	SD, CA
37	[illegible]	ASA INT'L	LONG BEACH
38	[illegible]	Castelazo + Assoc	Los Angeles
39	[illegible]	Kaminers + Fort.	Wash. D.C.
40	MIKE MAHONEY	Porter Int'l Inc	SAN DIEGO, CA
41	RALPH HERBISON	BARINCO INT	LOS ANGELES CA
42	SHARON HERBISON	" "	" "
43	JERRY PAPROFF	" "	" "
44	Scott Whiteley	HORTON + WHITELEY	OAKLAND CA

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47	Barbara Jacobs	American Pres Lines	San Pedro, CA
48	Winnie Torres	Westlake Systems	Los Angeles/Westlake
49	Tom Rose	FRITZ COMPANIES, INC	LOS ANGELES
50	Jim Thomas	DAVID W. SKENKT CO.	LOS ANGELES, CA.
51	Peter S. Hernck	Hornick & Ross	Los Angeles, CA
52	~~Lisa~~ BERNARD VAS	NIPPON EXPRESS USA	SAN FRANCISCO CA
53	PAUL TRIGLIA	BOLAND CES/CFS	SAN FRANCISCO, CA.
54	Marleen & Robert	Boland	Boland Trucking/CES S.F. Cal.
55	Helen Reed	Ted L. Russ Co.	San Francisco, Cal.
56	Rosalie Ben Joseph	EATC	OAK, Ca.
57	Mitsuyo Kouya	Japan Freight Consolidators	Los Angeles
58	Shunk Kinoshita	Colodish & Assoc.	L.A.
59	L. Gilman	Bankenberg, Coleman & Co.	Alb. Ca.
60	William Feeney	Maersk Line Ltd.	L.A.
61	Celeste Carter	A.H. CARTER & ASSOC.	SEATTLE, WA.
62	ERIC JONES	ERIC JONES CHB	Los Angeles CA
63	JOHN DRAGONE	ERIC JONES CHB	L.A.
64	[illegible]	AIM-MEX INT'L CHB	SAN DIEGO
65	[illegible]	KAMINO INTL	SAN DIEGO
66	[illegible]	SANDLER & TRAUS	LOS ANGELES

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70	Carole Herron	Ward Int'l Inc	Burlingame, Ca
71		F W MYERS & CO INC	SAN DIEGO CA
72		Fritz Companies, Inc	SF, CA.
73		W. J. Byrnes & Co	SF CA
74		Arthur J Fritz	SF CA.
75	Steven R Eller	W J BYRNES	SF
76		MOSES E SHRAIKSH & CO	L A Cal
77	CHARLES Schuyler	Charles M. Schuyler & Co.	SEATTLE, WASH
78	Cynthia Kramer	C. Kramer & Assoc, Inc	LA, Ca.
79		SST 2nd Door	L.A CA
80		"	"
81		Herrick & Ross	Los Angeles Ca
82		SST INT'L	LA, CA
83		Karl Schroff & Assoc	Seattle, WA
84	Helen Hashimoto	AMERICAN PRESIDENT LINES	OAKLAND CA
85	Ron Johnson	" " "	"
86	Terrence Mead	" " "	"
87	IRAN JEENS	" " "	"
88	Dolores A Kazmierczak	W J Byrnes	SFCA

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90	[illegible]	[illegible]	[illegible]
91	[illegible]	[illegible]	[illegible]
92	[illegible]	[illegible]	[illegible]
93	[illegible]	[illegible]	[illegible]
94	[illegible]	[illegible]	[illegible]
95	[illegible]	[illegible]	[illegible]
96	[illegible]	[illegible]	[illegible]
97	[illegible]	[illegible]	[illegible]
98	[illegible]	[illegible]	[illegible]
99	[illegible]	[illegible]	[illegible]
100	Margaret Latimer	W. J. Byrnes	S.F.O.
101	[illegible]	[illegible]	[illegible]
102	[illegible]	[illegible]	[illegible]
103	[illegible]	[illegible]	[illegible]
104	[illegible]	[illegible]	[illegible]
105	[illegible]	[illegible]	[illegible]
106	[illegible]	[illegible]	[illegible]
107	[illegible]	[illegible]	[illegible]
108	[illegible]	[illegible]	[illegible]
109	[illegible]	[illegible]	[illegible]
110	[illegible]	[illegible]	[illegible]

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112	Tiger Eckman	Seaboard Services	Long Beach CA
113	[illegible]	BICRD International	Torrance, CA.
114	Richard A. Ferguson	"K" Line-Kerr Corp.	San Francisco, CA
115	Don Wright	Castelazo + Assoc	Los Angeles, CA
116	April Morrow	Global Trade	Long Bch. CA
117	Jan J. Weis	Freetrans	San Francisco CA
118	[illegible]	Pearson & Company	San Francisco CA
119	Terry Cummings	Ransom Cos.	San Francisco, CA
120	Mirna E. Lee	KEL FNTL	Burlingame, CA
121	Robert Boland	Boland Trucking Co	San Francisco Calif.
122	Karl E. Tyrrell	U.S. Centers	San Francisco Cal.
123	[illegible]	U.C. Line Terminal	Portland, OR
124	[illegible]	Darnell Sheak Co	Los Angeles Ca.
125	[illegible]	JIB International	Stockton, CA
126	[illegible]	Arthur Young & CC	San Jose, CA
127	Scott Whiteley	Horton + Whiteley	Oakland CA
128	David Wilhelm	Geo R. Tuttle	SF
129	[illegible]	Montgomery	Marysville
130	[illegible]	Crowley	SFO
131	[illegible]	Evans Wood & Co. Inc.	Houston, TX
132	[illegible]	Evans Wood & Co Inc	Houston, TX

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134	[illegible]	[illegible]	San Francisco CA
135	[illegible]	INTER-CONTINENTAL CUSTOM BROKERS	Los Angeles CA
136	Jackie Carter	" " " " " "	"
137	[illegible]	Jessie Paxton Inc.	San Diego, Calif.
138	[illegible]	[illegible]	San Diego, CA
139	[illegible]	[illegible]	[illegible]
140	[illegible]	[illegible]	[illegible]
141	[illegible]	[illegible]	[illegible]
142	[illegible]	[illegible]	[illegible]
143	[illegible]	[illegible]	[illegible]
144	[illegible]	[illegible]	[illegible]
145	[illegible]	[illegible]	[illegible]
146	[illegible]	[illegible]	[illegible]
147	[illegible]	[illegible]	[illegible]
148	[illegible]	[illegible]	[illegible]
149	[illegible]	[illegible]	[illegible]
150	[illegible]	ALROD INTERNATIONAL INC	BALDWIN, CA
151	[illegible]	STRONG & HAYS, INC.	SAN DIEGO, CA
152	[illegible]	[illegible]	[illegible]
153	[illegible]	Ted L. Ramseth Co	San Francisco, CA
154	[illegible]	✓	✓

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157	[illegible]	[illegible]	[illegible]
158	[illegible]	[illegible]	[illegible]
159	[illegible]	Shearer + Hays, Inc.	SAN DIEGO
160	[illegible]	Shearer + Hays	San Diego
161	[illegible]	Shearer & Hays	S D
162	[illegible]	GTI Customs Brokers	S.F.
163	[illegible]	J.K. Smith & Co.	S.F.
164	[illegible]	Roanoke Cos.	S.F.
165	[illegible]	—	—
166	William Farasey	Marsh Line Agy	L.A.
167	Linda Norton	I.S. Int'l.	Stockton, Ca.
168	[illegible]	Circle Int Corp	S.F, CA
169	[illegible]	Hyman-Lloyd	San Carlos, CA
170	Karen Lorenz	IBM	Norwalk, CA
171	[illegible]	KEN HAMANAKA CO INC	Long Bch CA
172	[illegible]	Columbia Shipping	Los Angeles, CA
173	Sean F. Walsh	Roanoke Int'l.	Los Angeles, Ca
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175	Marjorie Dunkley	Price Waterhouse	Long Beach, CA
176	A. Ames	Moses E. Shamash	LAX

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180	[illegible]	Roanoke [illegible]	S.F.
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185	Gary Lundstedt	Moersk	Seattle
186	Shirley Fuller	Harry Bain C.H.B.	L.A. CA
187	[illegible]	Casas Int'l. Brokerage Inc	San Diego, Ca
188	[illegible]	Trade Insurance Service	San Francisco, Ca.
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190	Mary Gaulloppo		San Francisco
191	Elizabeth Lee Faulkner	Sharon & Hayden	San Diego
192	Leona E. Feldstein	Bee White Inc	Los Angeles, CA
193	Ed McKinnon	Port of Seattle	Seattle
194	Joyce K. McKinnon		Kirkland, WA
195	[illegible]	W.C. Ca.	
196	Carolyn Lomrance		Pllid, Ore
197	Martie [illegible]	Rolling & Assoc.	LB, CA
198	Linda [illegible]	MAERSK LINE	LONG BEACH, CA

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1	Michael Daly	F. W. Myers & Co.	Los Angeles CA
22	Deborah Daly		Irvine CA.
23	Shawna Vander yacht	Border Brokerage	Blaine, Wa.
4	Sharon Rechin	Barinco Intl	Los Angeles
25	[illegible]	Barinco Intl	Los Angeles
26	[illegible]	Maersk Line	San Francisco.
27	[illegible]	Gateway Freight Services	Los Angeles
28	[illegible]	[illegible]	[illegible]
29	Russell Ballet	W. J. Byrnes	Millbrae
10	Gregory Serrano	Contact Lumber Co	Portland, Ore
11	Jeffrey Dudley	Contact Lumber Co	Portland Oregon
2	Keith Fogel	Legend Shipping Co	Portland, OR
3	Debbie Fuja	Leopold & Stevens, Inc.	Beaverton, Or.
14	Mary Ann Stevens	Leopold & Stevens, Inc.	" "
15	Fran Elliott	Harper Robinson & Co	Portland OR
16	Bob Romeo	Leopold & Stevens	Beaverton, OR
17	[illegible]	W. J. BYRNES & CO.	PORTLAND, ORE.
18	Cindy Bell	Magnum Optics and Research, Inc.	Denver, CO
19	Ally McKay	Television Technology Corp	Broomfield Co.
20	Lewis Sergio	Charles M. Schaer & Co.	Denver Co.

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2	JACK M HARLOW	INT'L. CONSULTANT	BOISE, IDAHO
1	[illegible]	Kuehne + Nagel Inc	Salt Lake City, UT
22	Unknown		Hailey ID
23	Lee Hershey		Boise, Idaho
9	Susan Fry	Southwest Idaho Pr	Boise, Id.
5	Ellen Brown	Automotive Accessories Mfrs.	Boise, Idaho
6	Lloyd Byler	Boise Woods Inc	Buhl, Idaho
7	Jason Kirby	Boise Cascade Corp	Boise, IDAHO
8	Barbara Clifford	Boise Cascade Corp	Boise, Idaho
	Kenneth Francis	Mills International	Denver, Co.
	Marilyn D. Fraley	Gramville - Phillips Co.	Boulder, CO
	Charles M. Schayer	J. Charles M. Schayer & Co.	Denver, Colo.
	Cindy Miller	CM Schayer & Co	Denver, Co
	Jay Cagle	C M Schayer & Co	Denver Co
	Jan Mott	W.J. Byrnes Co.	Denver, CO.
	Linda Goodwin	Echosphere Int'l	Denver Co
	Natalie Sanchez	Echosphere Int'l	Denver, Co
	Sandra M. Elliot	Card Electro Med. Syst. Inc.	Englewood, CO
	Bill Cie	NCR Corporation	Fort Collins, Colorado

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RONELLE W. ADAMS

November 9, 1987

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
1102 Longworth House Office Building
Washington D.C. 20515

Re: Objection to Reduction in Duty rate for Paint Rollers as a Result of Their Proposed Classification Under The Harmonized System.

Dear Mr. Leonard:

This letter is submitted on behalf of the Paint Applicators Trade Action Coalition (PATAC). PATAC represents well over 60% of the domestic manufacturers of paint rollers. On behalf of PATAC, we would like to request that the separate line item number and duty rate treatment which currently exists for paint rollers be maintained under the new Harmonized System.

The maintenance of the separate line item number and duty rate for paint rollers is of particular concern to PATAC due to the dramatically increasing imports of paint rollers from Taiwan and the very real possibility that Taiwan soon may be graduated from the duty free benefit it now enjoys under the Generalized System of Preferences (GSP).

The proposed Harmonized System would bring paint brushes, paint rollers and paint pads together in one line item for "paint, distemper, varnish or similar brushes ..... paint pads and rollers", HS 9603.40 at a duty rate of 4%. However, under the current Tariff Schedules of the United States (TSUS), these three products enjoy separate line item numbers and duty rates. Paint brushes are currently classified in line item no. 750.65, TSUS (4%). Paint rollers are classified under line item no.

750.80, TSUS (7.5%). PATAC has not ascertained the present line-item no. for paint pads but believes that these items may be classified as articles of rubber or plastic, nspf.

All three items fall under the generic description of paint applicator. The domestic manufacturers of these items tend to be the same entities. Over the last few years, the domestic manufacturers of these items have been closely following the trade statistics for paint brushes and paint rollers, in particular. Imports for both of these products have risen dramatically during that time in terms of total imports and have changed in the principal country of origin.

In 1986, there were $10.6 million dollars worth of imports of paint brushes, up from $6.2 million in 1982. In 1982, Taiwan accounted for 26% of these imports. By 1986, Taiwan had come to account for over 70% of total paint brush imports. In the first half of 1987, total imports from all countries, as well as imports from Taiwan, have met or exceed the level of imports for the entire year of 1986.

As for paint rollers, the increase in import levels both in absolute terms and in the principal country of origin has been even more dramatic. In 1982, total imports of paint brushes amounted to a mere $98,000. Taiwan accounted for 16% of that amount. By 1986, there were $1.4 million in paint roller imports to the United States, with Taiwan accounting for over 98% of that amount.

We have addressed the need for the maintenance of separate trade data concerning paint brushes and paint rollers to the inter-agency Committee For Statistical Annotation of Tariff Schedules. However, the creation of separate statistical annotations will not prevent the potential harm to the domestic paint roller industry if the separate duty rate for paint rollers is not also maintained.

As previously noted, imports of Taiwanese paint rollers have risen at an alarming rate over the last few years, from a few thousand dollars in imports to $1.4 million in 1986. If, for whatever reason, Taiwanese imports of paint rollers are graduated from GSP, either because the country or the product no longer qualifies for duty free treatment, the imposition of a meaningful tariff rate will make the difference in stemming the flood of these imports.

Consequently, we request that you preserve the current 7.5% duty rate for paint rollers, rather than reduce it to the 4% rate which prevails for paint brushes at the present time.

Please contact PATAC's counsel at (202) 861-6800 if you have any questions or comments on this request.

Sincerely,

Ronelle W. Adams

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EUROPEAN OFFICE

CHROMATOGRAPHY AND ELECTROPHORESIS INSTRUMENTS ARE PROPERLY CLASSIFIABLE AS FILTERING AND PURIFYING MACHINERY AND APPARATUS

These comments are submitted on behalf of Pharmacia Inc., Piscataway, New Jersey, regarding the proposed implementation of the conversion of the Tariff Schedules of the United States ("TSUS") into the nomenclature structure of the Harmonized Commodity Description and Coding System ("Harmonized System") as part of H.R. 3, the Trade and International Economic Policy Reform Act of 1987.

The purpose of these comments is to demonstrate that the Harmonized System contains a serious ambiguity, if not an outright error, in its proposed classification of a type of filtering and purifying apparatus known as chromatography and electrophoresis equipment.

These comments supplement the submission to the Committee on Ways and Means on behalf of Pharmacia Inc. in January 1987 concerning the same issue in the third draft of the Harmonized System.

I

CURRENT TARIFF TREATMENT

Chromatography and electrophoresis equipment is presently classifiable under the tariff provision for "filtering and purifying ... apparatus ... for liquids" in item 661.95, TSUS. The rate of duty applicable to this provision for 1987 is 3.9 percent.

The current classification of chromatography and electrophoresis equipment under Tariff Schedules item 661.95 results from recent litigation before the U.S. Court of International Trade.

In Pharmacia Fine Chemicals, Inc. v. United States,[1] the importer challenged the Customs Service's classification of chromatography columns, related chromatography equipment, and fraction collectors under the tariff provision for "instruments or apparatus for physical or chemical analysis" in item 711.88, TSUS.[2]

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1 9 CIT 438 (1985).

2 The Government conceded that the classification of some of the columns and adaptors as "valves" under Tariff Schedules item 680.22 was incorrect. Tariff Schedules item 711.88 provides in pertinent part for: "... other instruments or apparatus for physical or chemical analysis ... all the foregoing, and parts thereof: ****** Other".

The U.S. Court of International Trade[3] rejected the Government's classification of the chromatography columns, related equipment, and electrical fraction collectors under Tariff Schedules item 711.88, and specifically determined that chromatography (and, by analogy, electrophoresis) is a method of filtration and purification, and not a method of physical or chemical analysis. Accordingly, the Court held that chromatography columns and related chromatography equipment are properly classifiable under Tariff Schedules item 661.95 as "filtering and purifying ... apparatus ... for liquids." The Court's decision similarly held that chromatography fraction collectors (which are electrically operated) are properly classifiable under the same provision, i.e., as parts of filtering and purifying apparatus.

The Court took special note of the testimony that chromatographic columns are not used for analysis:

> ... [P]laintiff's expert ... testified that 99.5% of the use of the articles is for purification and separation of material ... [P]laintiff's other expert ... testified that ... 90% of the use of the merchandise was "in the preparation process where ... the whole objective of running material through the columns is to ultimately get something pure in your hands." ... [D]efendant's expert ... conceded that [the] study ... [of Plaintiff's expert] reflected actual use of the merchandise....[4]

This testimony persuaded the Court to reject the Government's contention that an "instrument or apparatus which separates a material into component parts performs 'chemical analysis' ... [and] is provided for under item 711.88, TSUS," and to rule that merchandise "which merely separates materials to obtain a purified substance is not within the commercial meaning of 'apparatus for chemical analysis.'"[5]

In support of its ruling that the chromatography columns and fraction collectors were properly classifiable in item 661.95, TSUS, the Court of International Trade reviewed the classification of such apparatus under the Brussels Nomenclature, the tariff classification system used by many of our international trading partners. The Court pointed out that the language of Heading 84.18 of the Brussels Tariff Nomenclature is almost identical to the language of item 661.95 of the Tariff Schedules. The Court therefore relied upon the language contained in Heading 84.18 of the Explanatory Notes to the Brussels Nomenclature for its conclusion that the chromatography

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3 This court has exclusive jurisdiction to determine the proper classification of imported merchandise under the U.S. tariff laws. See 28 U.S.C. §1581(a); H. R. Rep. No. 96-1235, 96th Cong., 2d Sess. 21 (1980).

4 9 CIT at 439 n. 5.

5 Id. at 440 (footnote omitted).

apparatus was not classifiable as instruments for physical or chemical analysis:

> ... the Explanatory Notes suggest that the merchandise is within the provisions of Heading 84.18 -- and therefore that Congress intended that [the merchandise] be classifiable under item 661.95, TSUS -- and not within Heading 90.25, which corresponds to item 711.88, TSUS.[6]

Thus, chromatography equipment is clearly and unambiguously provided for in Heading 84.21 of the Brussels Nomenclature, as recognized by the U.S. Court of International Trade in its analysis of the Brussels Nomenclature and the Explanatory Notes to the Brussels Nomenclature.

The Court's decision also is supported by lexicographic sources, which reflect the commercial and scientific use of chromatography apparatus. For example, one lexicographic source states that:

> Chromatography ... is a technique for separation of mixtures during their passage over columns or sheets of adsorbent material ... which retard the passage of the individual components to different degrees.[7]

Similarly, electrophoresis is a commonly used technique for separating macromolecules in a liquid solution by "us[ing] an electrical field to force the charged marcomolecules through a gel that separate them by size."[8]

In sum, the actual commercial application of chromatography and electrophoresis apparatus is for filtering and purification, and not for analysis of any kind. Accordingly, such apparatus is classified for tariff purposes as filtering and purifying apparatus in both the current Tariff Schedules and the Brussels Nomenclature.

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6 Id. at 440. Tariff Schedules Item 711.88 covers instruments or apparatus for physical or chemcial analysis.

7 6 Collier's Encyclopedia 63 (1979).

8 Maugh, A Survey of Separative Techniques, Science, Oct. 21, 1983, at 259, 264-65.

II

PROPOSED TARIFF TREATMENT UNDER THE HARMONIZED SYSTEM

A. Purpose Of The Harmonized System.

The Harmonized System is a tariff classification system intended to replace the current Tariff Schedules of the United States. The Harmonized System has been developed after extensive negotiations with our international trading partners under the auspices of the Brussels-based Customs Cooperation Council. The purpose of adopting the Harmonized System is to create a single, world-wide product nomenclature system for use in the classification, description, and coding of goods under customs laws, the collection of statistical data on imports and exports, and the documentation of transactions in international trade.[9] To a large degree, the Harmonized System adopts the classification method found in the Brussels Nomenclature currently used by many of our international trading partners.

In requesting the U.S. International Trade Commission to prepare the draft conversion of the Tariff Schedules into the Harmonized System, the President indicated that the work should be performed in accordance with specific guidelines. In particular, the President directed that "the Commission should avoid, to the extent practicable and consonant with sound nomenclature principles, changes in the rate of duty on individual products."[10] In other words, the Harmonized System, though being a new nomenclature system, is not intended to change the rates of duty properly applicable to imported merchandise under existing law.[11]

B. The Proposed Classification Of Chromatography And Electrophoresis Apparatus Is Inconsistent With Current Law.

The proposed conversion of the Tariff Schedules into the Harmonized System includes a provision for chromatographs and electrophoresis instruments under Heading 9027, which provides as follows:

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9 See, e.g., 49 Fed. Reg. 35274 (September 6, 1984).

10 46 Fed. Reg. 47897 (September 30, 1981) (emphasis added).

11 See generally id. at 47897-98.

Heading	Stat. Suffix	Article Description	Rate Of Duty
9027		Instruments and apparatus for physical or chemical analysis ... parts and accessories thereof:	
		* * * * *	
9027.20		Chromatographs and electrophoresis instruments:	
9027.20.40		Electrical.....	4.9%
	40	Electrophoresis instruments	
	50	Gas chromatographs	
	60	Liquid chromatographs	
	80	Other	
9027.20.80		Other.....	6.2%
	30	Gas chromatographs	
	60	Liquid chromatographs	
	90	Other	

Thus, the proposed conversion apparently provides for chromatography and electrophoresis instruments as instruments or apparatus for physical or chemical analysis. This tariff treatment is in direct conflict with the proper classification of these instruments as filtering and purifying apparatus under both the current Tariff Schedules and the Brussels Nomenclature.

Moreover, the Harmonized System would undermine the expressly-stated objective of changing the nomenclature of the classification system without changing the duty rate applicable to imported merchandise. Present Tariff Schedules item 661.95 has a 1987 duty rate of 3.9 percent, but under the proposed conversion, merchandise classifiable in Heading 9027.20.40 or 9027.20.80 is dutiable at the rate of 4.9 percent or 6.2 percent respectively. In fact, the rate of 6.2 percent applicable to non-electric apparatus corresponds to present Tariff Schedules item 711.88, which is the very classification the Court of International Trade held to be incorrect.

The erroneous treatment of chromatographs and electrophoresis apparatus as analytical devices appears to result from a misunderstanding of the use of such apparatus described in the Explanatory Notes to the Harmonized System. The Explanatory Notes for Heading 90.27 erroneously characterize chromatography equipment as analytical. The Explanatory Notes state that:

> **Chromatographs** (such as gas-, liquid-, ion- or thin-layer chromatographs) for the determination of gas or liquid components. The gas or liquid to be analysed is passed through columns or thin layers of absorbent material and then measured by means of a detector. The characteristics of the gases or liquids under analysis are indicated by the time taken for them to pass through the columns or thin layers of absorbent material, while the quantity of the different components to be analysed is indicated by the strength of the output signal from the detector.

The Explanatory Notes are accurate insofar as they state that the "liquid to be analysed is passed through columns" (emphasis added), since the analysis is performed subsequently. However, the Explanatory Notes are completely wrong in stating that the instruments are used for "the determination of ... components" and that the "characteristics of the ... liquids under analysis are indicated by the time taken for them to pass through the columns ..." On the contrary, the characteristics of the liquids are not indicated by the time taken for them to pass through the column; therefore the liquids are not under analysis when they are passed through the columns. The description of electrophoresis instruments in the Explanatory Notes, which states that these instruments are "used for analysing ...," is also plainly wrong. Electrophoresis is a form of separation and purification closely related to chromatography, and any analysis of the separated material must be performed subsequently using different instruments.

In sum, the error in Harmonized System consists in describing the separative equipment under the same provision as the analytical equipment used after the purification.

Chromatography and electrophoresis are recognized in the marketplace, the laboratory, and the plant as separative methods of purifying materials. Their functions are "preparatory", i.e., they are used to obtain purified materials for various purposes for the laboratory or commerce. Even if a particular apparatus is used only to purify materials which will be analysed, the analysis itself will be by means of a different device -- an analytical instrument such as a densitometer, a spectrophotometer, or a chemical analyzer. In no case does the chromatography or electrophoresis equipment itself perform any analysis, although in a few instances such equipment is incorporated within an analytical apparatus.

Accordingly, chromatography and electrophoresis apparatus cannot be classified under Heading 90.27 of the Harmonized System.

III

THE PROPER CLASSIFICATION OF CHROMATOGRAPHY AND ELECTROPHORESIS INSTRUMENTS UNDER THE TARIFF SCHEDULES CONVERSION IS UNDER HEADING 8421 OF THE HARMONIZED SYSTEM.

Under the proposed conversion, Tariff Schedules item 661.95 has been converted to Heading 8421. Specifically, Heading 8421.29.00 provides for:

Heading	Stat. Suffix	Article Description	Rate Of Duty
8421		Centrifuges, including centrifugal dryers; filtering or purifying machinery and apparatus, for liquids or gases; parts thereof:	
		* * * * *	
		Filtering or purifying machinery and apparatus for liquids:	
8421.21.00	00	For filtering or purifying water..	3.9%
8421.22.00	00	For filtering or purifying beverages other than water.....	3.9%
		* * * * *	
8421.29.00		Other.....	3.9%

The foregoing statutory language, as well as the applicable rates of duty, unequivocally establishes that Heading 8421 provides for merchandise presently classifiable in Tariff Schedules item 661.95.

IV

CONCLUSION

Under the Harmonized System, the proper classification of chromatography and electrophoresis instruments must be in Heading 8421. Heading 9027 does not encompass the chromatographs and electrophoresis instruments, except to the extent that these instruments may have been incorporated in other apparatus that performs physical or chemical analysis. Accordingly, in order to correct the confusion engendered by the Explanatory Notes (which should also be amended) and facilitate customs administration, one of the following amendments to the Harmonized System should be made:

1. A United States headnote to Chapter 90 should be enacted which states that subheading 9027.20 does not cover chromatographic and electrophoresis instruments used for filtration, purification, or other preparative purposes, but is limited to analytical apparatus incorporating or used in conjunction with chromatographic or electrophoresis equipment.

2. In the alternative, the column 1 rate of duty for subheadings 9027.20.40 and 9027.20.80 should be changed to 3.9 percent to correspond to the rate of duty properly applicable to chromatographic and electrophoresis apparatus classifiable in item 661.95, TSUS.

3. In the alternative, the text of subheading 9027.20 should be amended to provide for "analytical apparatus incorporating or used in conjunction with chromatographs and electrophoresis instruments."

4. In the alternative, subheading 9027.20 should be deleted in its entirety and a specific provision for chromatographs and electrophoresis equipment should be inserted under heading 8421.

In conclusion, we urge the revision of the Harmonized System to accomplish the stated purpose of the conversion, and carry out the congressional intent that chromatography instruments be classified as filtering and purifying machinery and apparatus, in accord with the judicial determination and legal precedent set by the U.S. Court of International Trade in Pharmacia Fine Chemicals Inc. v. United States, 9 CIT 438 (1985).

Respectfully submitted,

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November 9, 1987

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October 19, 1987

The Honorable Dan Rostenkowski, Chairman
Committee on Ways and Means
1102 LHOB
Washington, DC 20515-6348

Dear Chairman Rostenkowski:

As an international trader, our company must be able to respond to developments that will facilitate and improve the movement of our products across national borders. The Harmonized Description and Coding System (Harmonized System) is just such a development. Our international operations will be enhanced if the Harmonized System is put into effect in our customs and tariff law on January 1, 1988. If such implementing legislation is not passed, our trading operations will be damaged. The need for immediate action is compelling for the following reasons:

1. The Harmonized System (HS) is a new international tariff and commodity classification system which the United States and other countries have worked over twelve years to develop. Japan, Canada, all European countries, other industrialized countries and many developing countries will implement the Harmonized System on January 1, 1988.

2. When implemented by the United States, the Harmonized System (HS) will allow traders to use the same trade classification system and place U.S. import and export statistics on a harmonized basis with trade flows of other nations. This will end a disadvantage which U.S. exporters have faced for many years, and which has increased in significance with the growth in automatic data processing procedures.

3. The United States has been able to exert little influence on how U.S. exports are classified for tariff and quota purposes in foreign countries. As of January 1, 1988, our major trading partners are going to implement a new system and establish the mechanism for administering changes and developments in commodity classifications. If the United States does not implement at the same time, it will lose the opportunity to influence the beginning operations of this new international classification system. This will be to the immediate and long-run detriment of U.S. trade interests, particularly U.S. exporters.

4. With its current unique classification system, the United States is at a disadvantage with its trading partners in the comparison of trade data. It was intended that all major trading countries change to the new system at the same time with all the incumbent benefits of an international system. If the United States does not implement the HS on January 1, 1988, the collection and publication of U.S. foreign trade statistics on a consistent basis affording sound comparison of country by country and commodity by commodity trade data for different time periods will be seriously damaged.

5. Many U.S. trading firms, exporters, importers, brokers and other supporting firms have spent tens of thousands of dollars preparing for this new commodity classification system. A minimum lead time of 60 days is really needed by trading firms to convert to the new system. If the United States remains on its existing systems for classifying exports and imports, while all of its important trading partners and many other countries shift to the new international system at the beginning of the year, the results will be confusion for individual company transactions and chaos for the U.S. statistical and quota control systems.

6. Development of the Harmonized System has afforded the U.S. business community every opportunity to raise and address questions and problems of classification and rates of duty on U.S. imports and exports. The adoption of this new tariff classification system by the United States is, therefore, noncontroversial as illustrated by the support from the complete spectrum of the business community.

7. The two committees of jurisdiction, House Ways and Means and Senate Finance, should take steps to assure that the full implementation of the Harmonized System is effective on January 1, 1988, either through definitive approval in H.R. 3 or alternative legislation enacted by at least November 14, 1987.

We strongly urge you to work with the leadership and with your colleagues on the two committees so that this noncontroversial but much needed legislation is passed as soon as possible.

Thank you.

Sincerely,

William D. Rion
President

(Identical letters were also received from the following:)

Ian Cheyne, General Manager, Polysar Inc., Plastics Division, Leominster, Massachusetts
Fermin Cuza, Assistant Treasurer, Foreign Trade Services, Mattel, Inc., Hawthorne, California
T.C. Green, Vice President, Polysar, Inc., Akron, Ohio
J.E. Ludwig, General Manager, Polysar Gulf Coast Inc., Orange, Texas
Harry A. McEachern, Polysar, Inc., Akron, Ohio
James W. Nunnery, General Manager, North & South America Latex, Polysar Latex, Chattanooga, Tennessee
Richard L. Zambarano, General Manager, Richardson Polymer Corp., Madison, Connecticut

THE PROCTER & GAMBLE COMPANY
GENERAL OFFICES
2 PROCTER & GAMBLE PLAZA, CINCINNATI, OHIO 45202-3314

November 4, 1987

The Honorable Dan Rostenkowski
Chairman, Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Bldg.
Washington, DC 20515

Attention: Robert J. Leonard,
Chief Counsel

Re: Implementation of the Harmonized Commodity Description and Coding System

Dear Mr. Chairman,

The Procter & Gamble Company appreciates the opportunity to submit comments on the proposed implementation of the Tariff Schedules of the United States into the Harmonized Commodity Description and Coding System. Our views are as follows:

1. It is important for the United States to convert on January 1, 1988. If this cannot be accomplished within the trade bill, it should be done by separate legislation. Failure to implement by that date will mean that:

   a. The United States has not met its negotiating commitments. This would provide an unfortunate example, and reduce the incentives for other countries to meet their commitments to us - an important trade policy consideration, especially under current circumstances.

   b. We would lose credibility within the Nomenclature Committee of the Customs Cooperation Council (CCC). As this Company knows from experience, this credibility is important to exporters with tariff classification problems in other countries, since it affects the U.S. government's ability to pursue such disputes in the CCC on their behalf.

   c. The training provided within both the Customs Service and the private sector would have to be repeated at considerable cost. Given the shortage of human resources within the Customs Service, this would hamper fair and effective law enforcement, defer resolution of Customs issues and very likely delay clearance of needed imports.

   d. United States trade statistics for 1988 would likely be distorted, if not meaningless. Cross-indexing and publishing for the year on either the old or the new basis, or even on both, would probably not resolve the problem.

2. Implementation should follow the draft conversion of July, 1987. This conversion reflected both the technical input provided by domestic industry and the GATT Article XXVII negotiations to resolve tariff discrepancies. It is particularly important to avoid a conversion that increases tariffs subsequent to the GATT negotiations. This would inevitably lead to trade disputes that would weaken the United States' ability to improve access to foreign markets in the Uruguay Round.

3. It is most important that the CCC's Interpretative Notes to the Harmonized System be part of the legislative history to the implementing legislation. Failure to do this would likely lead to differential interpretation by the United States. The results would include both unnecessary trade disputes and loss of the standardization benefits that are the rationale for adoption of the System.

4. The major reasons for adopting the Harmonized System are: -

   a. It will help exporters to identify foreign tariff rates and to resolve tariff difficulties with foreign governments, both directly and through the CCC.

   b. It is a more logical system than the current Tariff Schedules of the United States and is easier to interpret. This will aid both international traders and the U.S. Customs Service.

   c. It should aid law enforcement by U.S. Customs, particularly because the same classification will have to be used in the exporting nation as in the United States.

   d. Trade statistics both here and abroad will be more accurate, comparable and meaningful.

   e. As demonstrated by the proposal for the U.S.-Canada Free Trade Arrangement, the Harmonized System should provide a basis for resolving the complex, important and growing problem of "rules of origin".

Thank you again for soliciting our views. Please advise if you have any questions or need additional information.

Very truly yours,

D. J. Elliott
Associate Director
Customs Administration

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FMC 1154-CHB 3947

November 11, 1987

The Honorable Dan Rostenkowski
U. S. House of Representatives
Washington, DC 20515

Dear Congressman Rostenkowski:

As a business firm involved in international trade, we are very much concerned about U.S. implementation of the Harmonized Description and Coding System (the Harmonized System).

Japan, Canada, the European Community and many other countries have already taken action to implement the Harmonized System, effective January 1, 1988. Our country will be at a serious disadvantage if Congress fails to pass legislation adopting this new system at the same time as most of our important trading partners.

Clearly, the "fast track" provisions in the Trade Bill do not permit sufficient time to allow the U.S. to implement the Harmonized System along with the rest of the world on January 1. Congress must therefore act quickly to implement the Harmonized System through the Trade Bill or, if passage is not imminent, to enact separate legislation providing for U.S. implementation.

Our industry, in cooperation with the U.S. Customs Service, has already spent many thousands of dollars preparing for implementation of the Harmonized System, and in training our personnel to use it. However, still more training will be needed after legislation is passed, and we must have sufficient time after enactment to re-program our computers and refine our internal procedures to accommodate the new system.

For these reasons, we feel that it is imperative that Congress take action now to enact implementing legislation. To delay this action until late November or, worse yet, December, would leave insufficient time for the international trade community to properly prepare for an orderly transition to the new Harmonized System.

We strongly urge you to work with the House and Senate leadership and with your colleagues on the two committees of jurisdiction -- House Ways and Means and Senate Finance -- to ensure that this non-controversial but much needed legislation is passed as quickly as possible.

Sincerely yours,

QUAST & CO., INC.

Karl H. Quast
Chairman of the Board

COMMENTS
OF
RHONE-POULENC INC.

ON THE IMPLEMENTATION OF THE PROPOSED
CONVERSION OF THE TARIFF SCHEDULES OF THE
UNITED STATES INTO THE NOMENCLATURE STRUCTURE
OF THE HARMONIZED SYSTEM AS IT RELATES
TO SILICONE PRODUCTS

SUMMARY

Rhone-Poulenc Inc. urges the enactment of legislation to effect the proposed conversion as it relates to silicone products of the Tariff Schedules of the United States ("TSUS") into the nomenclature structure of the internationally agreed to Harmonized Commodity Description and Coding System ("Harmonized System"). This conversion is set forth in Harmonized System item numbers 3910.00-3910.00.50 in the Proposed United States Tariff Schedules Annotated in the Harmonized System Nomenclature issued by the Office of the U.S. Trade Representative ("USTR") in July 1987.

Enactment of the legislation as it relates to silicone products would:

1. Maintain the status quo (i.e., would be "trade neutral") of the present duty structure and keep U.S. manufacturers and U.S. importers of silicone products in the same relative competitive positions that presently exist;

2. Take into account, for purposes of duty rates, the significant chemical and physical differences in the various forms of silicone products in both appearance and application;

3. Be consistent with United States' commitments under the General Agreement on Tariffs and Trade ("GATT"), thus avoiding the problems associated with legislation such as Section 808 of H.R. 3 which would increase duties on silicone products and which is opposed by the Administration;

4. Obviate the potential for establishing a harmful precedent of unilateral changes and unilateral compensation relating to GATT commitments; and

5. Prevent retaliatory action by our trading partners, which could injure innocent American companies and workers by increasing barriers to American exports, resulting in less exports and a greater trade imbalance.

PRELIMINARY STATEMENT

These written comments are submitted pursuant to the October 26, 1987 notice of the Committee on Ways and Means relating to written testimony for the record on implementation of the USTR's July 1987 Edition of the proposed conversion of the TSUS into the nomenclature structure of the Harmonized System. This 1987 Edition is the culmination of over ten years of study, drafting and discussion amongst the tariff experts of the United States and much of the world. The study for the Harmonized System was initially developed by the Customs Cooperation council with United States participation.

The United States participated in the development of the Harmonized System in accordance with section 608(c) of the Trade Act of 1974. At the request of the President, the U.S. International Trade Commission has prepared the draft conversion of the TSUS into the nomenclature structure of the Harmonized System. The United States Trade Representative ("USTR") heretofore requested written comments from the public on the conversion. The United States and other major trading countries have set January 1, 1988, as the target date for implementation of the Harmonized System, subject to U.S. Congressional approval. After ten years of study and discussion the proposed conversion is ready for adoption.

STATEMENT OF POSITION

Rhone-Poulenc Inc. ("RP") is a U.S. corporation with corporate offices in New York, New York and with principal business offices at P.O. Box 125, Black Horse Lane, Monmouth Junction, New Jersey.

RP imports many silicone and other products which, in addition to products manufactured in the United States, are distributed on a national basis. RP employs 3,750 individuals in the United States and has manufacturing facilities in Georgia, Missouri, New Jersey, Oregon, Pennsylvania, Tennessee, Texas, Washington and West Virginia.

In October 1986, the Trade Policy Staff Committee, Office of the USTR, in its report on the conversion of the TSUS into the Harmonized System, proposed that silicone fluids, resins and rubbers be classified in one tariff item (3910.00), with three subheadings, each subject to a different duty rate. For ease of reference we have attached hereto a copy of this conversion of the TSUS into the Harmonized System, reflecting item number 3910.00. This proposal was continued unchanged into the July 1987 Edition of the Conversion issued by the USTR.

RP urges the enactment of legislation to effect the proposed silicone provision of the U.S. conversion to the Harmonized System for a number of reasons. The net result of the enactment of the legislation would be that the current duty rate would continue to apply to each of the different silicone products. This conversion of the TSUS into the Harmonized System reflects established and ongoing U.S. customs practices recognizing the chemical and physical differences in the various forms of silicone products. It also is consistent with the Presidential mandate on the U.S. conversion to the Harmonized System; it does not impose new administrative burdens, nor increase duty rates affecting silicone products. The proposed conversion is thus "trade neutral" and in keeping with our international obligations to our trading partners.

At the Tokyo Round of the Multilateral Trade Negotiations ("MTN") under GATT, U.S. trading partners negotiated in good faith for specific rates of U.S. customs duties for the various silicone products, and the United States agreed to be bound to those negotiated rates under GATT. The current duty rates are bound in the U.S. Schedule XX to the GATT and should not be changed except in accordance with specific procedures of GATT. Deviations from the proposed conversion for silicone products which results in increased duty rates could subject the United States either to claims for compensation or to retaliation by affected countries. The Administration has recognized this, and for this reason has objected to such measures as Section 808 of H.R. 3, which would increase duties on silicone products in contravention of U.S. obligations.

The United States made a conscientious decision to participate in various MTNs under GATT as to tariff rates. Having made that decision, it would not be prudent for the United States to ignore the tariff rates agreed to or depart from the recommendations of U.S. tariff experts as to the proposed conversion. Deliberations by the tariff experts have resulted in objective classifications of products and objective duty rates in the conversion. Any deviations from the proposed Harmonized System resulting in an increase of duty rates would harm U.S. companies using imported silicones. Increasing rates would be discriminatory against the importers and users of imported silicone products, and would be a violation of the U.S. obligations entered into during the Tokyo Round of the MTN under GATT.

The proposed conversion to the Harmonized System evolves from a Presidential mandate that the U.S. tariff structure be simplified to the extent possible without rate changes significant for U.S. industry, workers and trade. The proposed conversion reflects the Presidential mandate and preserves the present equities. Although the proposed conversion will still provide a competitive edge for U.S. manufacturers (it does not eliminate duties), it preserves the relative competitive positions between U.S. manufacturers and importers. The opponents of the proposed silicone provisions of the Harmonized System would have the public believe that adoption of the Harmonized System would effectively reduce the duty rate applicable to a substantial portion of the silicone imports and erode the competitive position of the U.S. silicone industry. The facts are that the Harmonized System preserves the status quo and the U.S. silicone industry will continue to enjoy its present competitive edge. Any deviations from the status quo resulting in higher duties, as some have proposed (see, e.g., Section 808 of H.R. 3 as reported by the House Ways and Means Committee), would place the importers of silicone products at a greater competitive disadvantage than presently exists.

Indeed, any deviation from the proposed conversion to the Harmonized System resulting in an increase of duty rates on imported silicone products would injure not only the importers of silicone products but would also injure innocent U.S. industries not at all involved with silicone products. It is acknowledged by the Administration that U.S. trading partners could take retaliatory action and impose offsetting duty rate increases on U.S. exports.

Given the existing severe trade imbalance, deviation from the proposed conversion for silicone products to the Harmonized System is not the proper signal to give to our trading partners. Retaliatory action by our trading partners would have the net effect of reducing exports of U.S. products, negatively impacting upon the trade balance. The United States is at a cross-roads on this matter. It would be prudent for the United States to adopt the proposed Harmonized System and not give our trading partners the opportunity to retaliate, further widening the trade imbalance between the United States and our trading partners with the net result -- lost profits for American industries and lost jobs for American workers.

Even if our trading partners would elect not to retaliate in the event the United States fails to adopt the proposed Harmonized System as it relates to silicone products, but instead adopts a conversion increasing duties on some silicone products while reducing them on other such products, such action would still have the detrimental effect of giving approval to the concept of unilateral compensation under the GATT for violation of the GATT. In the future, our trading partners may point to this example in contending that since the United States can choose the compensation for its violations, then our trading partners in turn should be able to choose the compensation when they change their duties unilaterally.

The United States has committed itself to certain objectives in converting the TSUS into the proposed Harmonized System. The primary objective, to foster trade with our trading partners, will be aided by the proposed conversion. the United States should adopt the Harmonized System. It is respectfully submitted that the House of Representatives approve the implementation of the proposed conversion, which is the culmination of over ten years of study and discussion, and which would be beneficial to U.S. industry, labor and trade.

Italo H. Ablondi, Esq.
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Attorneys for Rhone-Poulenc Inc.

ATTACHMENT

39-A

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty		
				1		2
				General	Preferential	
3910.00		Silicones in primary forms:				
3910.00.10	00	Elastomeric	kg	Free		20%
		Other:				
3910.00.20	00	Dimethylsiloxane fluids	kg	3.7%		25%
3910.00.50	00	Other	kg	2.2¢/kg + 7.7%		33.5%
3911		Petroleum resins, coumarone-indene resins, polyterpenes, polysulfides, polysulfones, and other products specified in legal note 3 to this chapter, not elsewhere specified or included, in primary forms:				
3911.10.00	00	Petroleum resins, coumarone, indene, or coumarone-indene resins; polyterpenes	kg	6.1%		15.4¢/kg + 48%
3911.90		Other:				
3911.90.10	00	Elastomeric	kg	Free		20%
		Other:				
		Containing monomer units which are aromatic or modified aromatic, or which are obtained, derived, or manufactured in whole or in part therefrom:				
3911.90.20	00	Thermoplastic	kg	6.1%		15.4¢/kg + 49%
3911.90.30	00	Thermosetting	kg	5.8%		15.4¢/kg + 45%
3911.90.50		Other		2.2¢/kg + 7.7%		33.5%
	10	Thermoplastic	kg			
	50	Thermosetting	kg			
3912		Cellulose and its chemical derivatives, not elsewhere specified or included, in primary forms:				
		Cellulose acetates:				
3912.11.00	60	Nonplasticized	kg	5.6%		73.5%
3912.12.00	00	Plasticized	kg	5.6%		73.5%
3912.20.00	00	Cellulose nitrates (including collodions)	kg	5.2%		34.5%
		Cellulose ethers:				
3912.31.00	00	Carboxymethylcellulose and its salts	kg	6.6%		66%
3912.39.00	00	Other	kg	4.2%		33.5%
3912.90.00	00	Other	kg	5.2%		34.5%
3913		Natural polymers (for example, alginic acid) and modified natural polymers (for example, hardened proteins, chemical derivatives of natural rubber), not elsewhere specified or included, in primary forms:				
3913.10.00	00	Alginic acid, its salts and esters	kg	6.2%		25%
3913.90		Other:				
3913.90.10	00	Chemical derivatives of natural rubber	kg	Free		20%
3913.90.20	00	Polysaccharides and their derivatives	kg	5.8%		50%
3913.90.50	00	Other	kg	2.2¢/kg + 7.7%		33.5%
3914.00.00	00	Ion-exchangers based on polymers of headings 3901 to 3913, in primary forms	kg	3.9%		35%

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LIVESTOCK, DAIRY AND POULTRY

COMMITTEE ON HOUSE ADMINISTRATION
SUBCOMMITTEES:
CHAIRMAN, OFFICE SYSTEMS
ELECTIONS

Congress of the United States
House of Representatives
Washington, D.C. 20515

October 28, 1987

The Honorable Sam Gibbons, Chairman
House Subcommittee on Trade
1136 Longworth HOB
Washington D.C.

Dear Mr. Chairman:

Several constituents have written to me voicing their support for the Harmonized Description and Coding System. As you know, provisions for this system were included in H.R. 3, and many of our trading partners will be using this time-saving system early next year. I commend you for having the foresight to include the Harmonized Description and Coding System in the Trade Bill, and kindly request all that you can to ensure that this program is implemented at the earliest possible date.

Once again, I appreciate the fine work you have put into this badly needed , comprehensive trade bill.

Sincerely,

Charlie Rose

87-017 O - 88 - 8

Ryder System, Inc.
3600 NW 82 Avenue
Miami, Florida 33166
305 593-3800

Daniel K. O'Connell
Executive Vice President

RYDER SYSTEM

November 6, 1987

Committee on Ways and Means
U. S. House of Representatives
Room 1102, Longworth House Office Bldg.
Washington, D. C. 20515

Attention: Robert J. Leonard, Esq., Chief Counsel

Gentlemen:

Re: Comments on Approval and Implementation of
Harmonized Commodity Description and Coding System

Ryder System is engaged, through its Ryder International Freight and Customs Services Division, in providing customs brokerage and international freight forwarding services. In this connection we are very concerned about the schedule for implementing the Harmonized System which would be approved upon passage of the Trade Bill which is now in Conference. It is important that the Harmonized System be implemented as early as possible. We had hoped that the action on the Trade Bill would be completed in time to permit implementation at January 1, 1988, along with the other GATT signatories who have already acted to approve and schedule implementation of the system. A minimum of 60-90 days will be needed following approval before implementation can be effected without chaos. Furthermore, it now appears increasingly unlikely that the Trade Bill will be enacted this year.

Accordingly, we urge the Chairman and the Committee to take whatever action is necessary to carve out the provisions of the Trade Bill relating to approval and implementation of the Harmonized System and to move a separate bill to enactment at the earliest possible date. The separate legislation should provide a period of 60-90 days in order for the Customs Service and firms engaged in trade to prepare for implementation.

I can be reached at the address and telephone number above.

Sincerely,

Daniel K. O'Connell

SAN FRANCISCO
Customs Brokers & Freight Forwarders ASSOCIATION
303 WORLD TRADE CENTER, SAN FRANCISCO, CALIFORNIA 94111 • 415/982-7788

15 October, 1987

The Honorable Dan Rostenkowski
Chairman, House Ways and Means Committee
United States House of Representatives
Rayburn House Office Bldg., room 2111
Washington, DC 20515

Dear Congressman Rostenkowski:

As Customs Brokers and Freight Forwarders, we are business firms involved in international trade, and are very much concerned about U.S. implementation of the Harmonized Description and Coding System.

Japan, Canada, the European Community and 51 other countries have already taken action to implement the Harmonized System on 1 January, 1988. Our country will be at a serious disadvantage if Congress fails to pass legislation adopting this new system at the same time as most of our important trading partners.

The Harmonized System will enhance U.S. Customs revenue collecting ability. It will improve the American export position. It will greatly improve the efficiency and effectiveness of the world trade information system by providing better trade statistics, by facilitating the use of electronic transactions and by allowing more uniformity of forms at a national and international level.

Clearly, the "fast track" provisions in the Trade Bill do not permit sufficient time to allow the U.S. to implement the Harmonized System along with the rest of our trading partners on January 1. Congress must therefore act quickly to implement the Harmonized System through the Trade Bill or, if passage is not imminent, to enact separate legislation providing for U.S. implementation.

Our industry, in cooperation with the U.S.Customs Service has devoted thousands of man-hours preparing for implementation, and in training our personnel to use it. Our customers, who trade with the other countries that will implement the Harmonized System, have likewise invested time and money in preparation. They will be placed at a serious disadvantage in world markets if the U.S. does not implement the Harmonized System on January 1. Further, this delay would likely increase the Trade deficit, and further weaken our trade position.

For these reasons, we feel that it is imperative that Congress take action now to enact implementing legislation.

Respectfully yours,
John A. Leitner, President

John A. Leitner

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November 9, 1987

FILE REFERENCE NO.

1319

Robert J. Leonard, Esq.
Chief Counsel
Committee on Ways and Means
U. S. House of Representatives
Longworth House Office Bldg.
Room 1102
Washington, D.C. 20515

Delivered by Messenger

RE: Classification of Disk Drives
Under the Harmonized System

Dear Mr. Leonard:

On behalf of Seagate Technology, Inc., Quantum Corporation, and Conner Peripherals, Inc. (who are major importers of hard and floppy disk drives for personal and business computers), we wish to comment on proposed changes to Heading 8471 of the Harmonized System.

We urge immediate adoption of the Harmonized System so it can become effective on January 1, 1988, the date when the European Community and other major trading partners will adopt the Harmonized System. The July 1987 draft which is before the Committee is the culmination of years of careful study, review, and negotiations in Geneva and Brussels. The various drafts have been made available to the public, and interested parties have been given a full opportunity to make their views known. The July 1987 draft should be considered a final document ready to be incorporated into the tariff laws of the United States. The United States has a commitment to join its trading partners in the adoption of the Harmonized System on January 1, 1988, and we urge the Congress to do so.

Proposed Changes to Heading 8471,
Providing for Automatic Data
Processing Machines and Units Thereof

It is our understanding that the U. S. Customs Service has recommended to the Office of the Special Trade Representative and to the International Trade Commission that the Harmonized System be revised to eliminate Items 8471.92.40, 8471.93.40 and 8471.99.40, all of which provide for free entry of automatic data processing machines and units thereof "not having a base for fixing or placing them on a table, desk, wall, floor or similar place and not incorporating a cathode-ray tube." It appears that elimination of these items, specifically Item 8471.93.40, would result in disk drives entered without a base or case

to enclose them being classified as unfinished storage units dutiable at the rate of 3.7 percent ad valorem. We believe this change would be contrary to the long-established uniform practice by U.S. Customs of classifying disk drives entered without cases as parts of automatic data processing machines under Item 676.52, TSUS, now Item 676.54, TSUS, at a free rate of duty.

Under the Harmonized System draft of July 1987, disk drives without bases which are imported for incorporation into automatic data processing machines would be classified in Item 8471.93.40 as storage units, not having a base for fixing or placing them on a table, desk, wall, floor or similar place and not incorporating a cathode-ray tube, at a free rate of duty.

This provision was included in the draft Harmonized System after public hearings, after the public was given notice of the proposal and an opportunity to comment, and after careful and considered negotiations. It should not now, at the last minute, without public hearing, without public comment, and without negotiations, be precipitously changed to a dutiable status. The July 1987 draft of the Harmonized System was the result of years of careful, prolonged, painstaking work and negotiations, with all interested parties having an opportunity to be heard. This draft was submitted to Congress as a finished document and should be the final document incorporated without change into enabling legislation.

Any Revision of Heading 8471 Should
Preserve Duty-Free Treatment for Disk Drives

If it is determined to revise Heading 8471 as recommended by the U. S. Customs Service, we request that a revision also be included to provide a separate item at a free rate of duty to cover disk drives which are entered without a base or case to enclose them and which utilize disks of a diameter not exceeding 5-1/4 inches. Alternatively, we request that the Harmonized System be revised to provide a separate item at a free rate of duty covering storage units, whether or not entered with the rest of a system, used solely or principally in data processing machines, not as stand-alone units.

We wish to summarize the reasons for our belief that a uniform and established practice exists under the TSUS.

Bureau of the Census Statistics
Show a Uniform Practice

The uniform practice of classifying disk drives underItem 676.54, TSUS, and its predecessor, Item 676.52, TSUS, is clearly established by the large number of entries of disk drives that have been liquidated under these tariff items at various ports throughout the United States. Import statistics obtained from the Bureau of the Census covering the period from January 1, 1987, through May 31, 1987, establish that 87 percent of all disk drives imported into the United States during that period were classified in Item 676.54, TSUS, as parts of automatic data processing machines. The statistics break down as follows:

WORLD TOTAL IMPORTS UNDER ITEM 676.30:

Disk Drives: 159,988,539

WORLD TOTAL IMPORTS UNDER ITEM 676.54:

Disk Drives: 1,086,665,203

TOTAL DISK DRIVE IMPORTS FOR BOTH ITEMS: 1,246,653,742

1,086,665,203 ÷ 1,246,653,742 = 87 Percent

While these statistics do not show which disk drives were imported with bases and cases and which were not, it may be reasonably assumed that those disk drives having bases at the time of importation were classified in Item 676.30, TSUS, and that those that did not have bases were classified in Item 676.54, TSUS.

Customs Rulings Establish a Uniform Practice

Customs Headquarters has issued at least two rulings, No. 072720 dated June 6, 1984, and No. 068986 dated November 5, 1981, in which it held that floppy disk drives imported without cases or bases were to be classified in Item 676.52, TSUS, as parts of automatic data processing machines. Although these rulings were apparently unpublished, it must be presumed that these rulings have been followed by the Customs districts to which the rulings were addressed. Accordingly, the issuance of these rulings, one in 1981 and the other in 1984, showing an unvarying position by Customs Headquarters over a period of years, is strong evidence of the existence of an established and uniform practice.

The Harmonized System Continues the Practice

The provisions of the Harmonized System (July 1987) support the contention that a uniform and established practice exists. As currently drafted, Item 8471.93.40 continues the distinction between storage units having a base and storage units not having a base, and makes provision for those units not having a base to be afforded duty-free entry. Item 8471.93.80, providing for "other" storage units, would cover those units imported with a base and dutiable at 3.7 percent ad valorem.

The Brussels Nomenclature Supports
the Existence of the Practice

It is well established that the Brussels Nomenclature provides a clear indication of congressional intent which can be looked to to clarify the Tariff Schedules. Heading 84.59 of the Brussels Nomenclature provides that mechanical devices incorporated into a more complex entity are separate machines only if the function of these devices "does not play an integral and inseparable part in the operation of such machine, appliance or entity." This position was adopted by Customs Headquarters in Ruling No. 040922, dated April 26, 1976. The ruling held that a printing mechanism, which in actual use was physically placed in the same housing with a data source collector, was classifiable in Item 676.52, TSUS, as parts of office machihes and not in Item 676.30, TSUS, as unfinished office machines.

Summary

In summary, we oppose any last-minute change to Heading 8471 of the Harmonized System for the reasons stated above. If a change is to be made, however, the change should also provide for a separate item classifying disk drives at a free rate of duty. In this regard, we have been furnished with a draft proposal by the International Trade Commission to revise the provisions of Heading 8471 providing for the classification of automatic data processing machines and units thereof (copy enclosed). It is our understanding that this draft proposal has been submitted to the Committee on Ways and Means with a recommendation that it be substituted for the heading contained in the July 1987 draft of the Harmonized System.

This draft proposal revises Subheading 8471.93 providing for classification of storage units. While we oppose any change to Heading 8471, if it is to be revised we endorse the provision in the enclosed draft proposal, and recommend it be included in the Harmonized System. As an alternative, we suggest the following:

8471.93	Storage units, whether or not entered with the rest of a system:
8471.93.40	Disk drive units utilizing magnetic disks of a diameter not exceeding 5-1/4 inches:
	Not having a case to enclose them . . Free
8471.93.40.20	Flexible (floppy) magnetic disk drive units . . . .
8471.93.40.40	Hard magnetic disk drive units . . . .

Previously, when changes have been proposed to the draft Harmonized System, the public has been notified and given an opportunity to submit comments. We ask that the same procedure be followed with respect to any changes proposed to be made under Heading 8471 of the Harmonized System.

Your favorable consideration of this matter will be greatly appreciated.

Very truly yours,

Law Offices of
GEORGE R. TUTTLE,
A Professional Corporation

By Irving W. Smith, Jr.
Irving W. Smith, Jr.

IWS/amf
Enclosure
cc: George R. Tuttle, Esq.
Enclosures:
1. draft revision of Heading 8471, HS
2. letter from Eugene Rosengarden, ITC
3. letter from Seagate Technology, Inc.
4. ruling request to Customs
5. supplement to ruling request
6. memorandum on Customs rulings

[ATTACHMENTS TO THIS STATEMENT ARE BEING RETAINED IN THE COMMITTEE FILES.]

Sears, Roebuck and Co.
Corporate Governmental Affairs
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RANDOLF H. AIRES
VICE PRESIDENT

202/737-4800

November 9, 1987

Robert J. Leonard, Esq.
Chief Counsel
Committee on Ways and Means
1102 Longworth House Office Bldg.
U.S. House of Representatives
Washington, D.C. 20515

RE: PROPOSED IMPLEMENTATION IN THE TRADE BILL OF THE CONVERSION OF THE TARIFF SCHEDULES OF THE UNITED STATES INTO THE HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM

Dear Mr. Leonard:

This is in response to the Chairman's October 26, 1987, request for written comments on the above proposal.

Sears strongly supports prompt legislative action to directly implement the Harmonized System effective January 1, 1988. If conference deliberations on H.R. 3 can not be promptly completed so as to provide sufficient lead time for the implementation, we suggest that separate implementing legislation be placed on a expedited track for approval.

We would like to take this opportunity to raise one particular concern about implementation as it relates to those provisions pertaining to the classification of coated outerwear garments designed for rainwear, hunting, fishing and similar uses presently provided for in Items 376.54 and 376.56, Tariff Schedules of the United States (TSUS) and dutiable at the respective rates 6.6% and 7.6% ad valorem. Specifically, the latest code revision (July, 1987 Preliminary) is not in accordance with present classification practices relating to coated outerwear garments nor the current state of the law with respect to the classification of such garments under the rainwear provisions in the tariff schedules.

By way of background, the October, 1986 version of the code failed to include any express provisions for "rainwear." Additionally, to receive the lower duty rate presently applicable to such garments under the TSUS, the October, 1986 version required that the plastics coating on such outerwear be "visible to the naked eye." This requirement is interpreted by the United States Custom Service to mean that the surface of the fabric is visibly affected by a coating if: 1) the coating can be separately distinguished from the fabric by the naked eye; 2) the coating imparts a shine,

luster or glossy appearance, or a dull appearance, that is noticeable by a casual examination; or 3) the coating has caused the fabric to have a pronounced (obvious) appearance of stiffness.

However, in the latest version, it appears that not only has the United States Trade Representative (USTR) and U.S. Customs purposely limited the scope so as to exclude other garments designed "for similar purposes," they have inserted another equally unlawful requirement which has the potential of increasing duty assessments on imported coated outerwear from three to five times the amount presently payable. This unlawful requirement is the so-called "cup test" which Customs used in the past to determine the classification of many imported garments as rainwear. The United States Court of International Trade expressly rejected the applicability of the "cup test" in IZOD Outerwear v. United States, 7 CIT 309 (1985) and determined that garments need not be "waterproof" to be classifiable as rainwear.

The latest version of the Harmonized Code, which is intended to replace the current Tariff Schedules, reveals that an "additional U.S. Note" to Chapter 62, has been inserted as well as six proposed successor provisions to TSUS Items 376.54 and 376.56, each entitled "Garments designed for rainwear." To be classifiable under these provisions, however, the additional U.S. note proposes to add "a water resistance" requirement under ASTM Specification D 3600-81 and D 3781-79 when tested in accordance with AATCC test method 35-1980.

However, a careful review of the referenced ASTM and AATCC specifications as well as indications from the Chairman of the ASTM committee make it clear that the USTR has adopted the most stringent hydrophobic test available. Specifically, the ASTM specifications provide for two types of hydrophobic characteristics - water resistance and water repelling. The first test, entitled "Water Resistance (Rain Test)," is analogous to "waterproofness" and designed to gauge resistance to penetration by water. As specified therein, the test is required to be conducted in accordance with AATCC Method 35-1980 and consists of subjecting the fabric to water under pressure for a specified period of time (head pressure of 600mm, or 2 feet, for two minutes).

The second test in the ASTM specifications, entitled either "Water Repellency (Spray Test)" or "Resistance to Wetting (Spray Test)," is designed to ascertain a fabric's resistance to wetting and measures the amount of water absorbed by comparison of the dispersal pattern on the surface of the fabric.

However, it is our opinion that the test adopted by the USTR ("Water Resistance") quantitatively amounts to nothing more than a new version of the "Cup Test" rejected by the IZOD case. Indeed, the court in IZOD expressly held that to be classified as rainwear the garment need only be water repellant as opposed to waterproof or water resistant.

The Harmonized Code Nomenclature is intended to convert the present Tariff Schedules on a rate neutral basis. However, the new language of the July, 1987 draft would not provide rate neutrality; indeed, the current draft would significantly change the present classification practice for coated outerwear under the TSUS.

Therefore, we strongly urge Congress to clarify and correct the proposed Code revision so that when it is implemented it will truly be in accordance with present law and classification practices.

Respectfully,

SEARS, ROEBUCK AND CO.

Randolf H. Aires

Randolf H. Aires
Vice President
Governmental Affairs

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November 6, 1987

FILE REFERENCE NO.

1168

Robert J. Leonard, Esq.
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102, Longworth House Office Bldg.
Washington, D.C. 20515

RE: Implementation of Harmonized System; Important Change Needed For Luggage of Vegetable Fibers in Chapter 42

Dear Mr. Leonard:

On behalf of Skyway Luggage Company of Seattle, Washington, we wish to bring to your attention an important correction that needs to made to Chapter 42 (luggage) of the latest draft of the Harmonized System (July 1987). Without this correction, the Harmonized System will not achieve its goal of being duty-neutral in its conversion from the Tariff Schedules of the United States (TSUS).

Recommended Change to Chapter 42

Specifically, we are recommending that a breakout be made to Chapter 42 Subheading 4202.92 with a duty rate of 6.5% to provide for traveling bags such as tote bags, garment bags, etc., of vegetable fibers, which are currently dutiable at 6.5% under TSUS. Skyway has written to Mr. Chris Marcich of the U.S. Trade Representative about this issue, who indicates that he supports this amendment to Chapter 42. At the time of this writing, we understand that the Trade Representative has recommended that there be included in the current draft of the Harmonized System a new U.S. subdivision -- 4202.92.20 -- providing for traveling bags, etc., of vegetable fibers with the duty rate of 6.5%. We understand that this recommendation is being reviewed by the Trade Policy Staff Committee of the Office of the U.S. Trade Representative. We strongly recommend that this new breakout be incorporated into the current edition of the HS prior to enactment. Without the recommended change, the Harmonized System will inadvertently raise the duty rate on certain luggage of vegetable fiber, such as tote bags, garment bags, casual luggage, duffel bags, etc., from 6.5%, under TSUS, to 20% under the Harmonized System.

Current Tariff Treatment Under TSUS

Under TSUS, luggage items are divided essentially into three categories: luggage, handbags, and flat goods.

Luggage of man-made fiber is dutiable at 20%, and luggage which is in chief value of vegetable fiber, such as jute, linen, etc., has been dutiable at 6.5%.

Duty Treatment of Luggage
Articles Under the Harmonized System

The July 1987 draft of the Harmonized System has essentially divided luggage into two subcategories:

1. Trunks, suitcases, and similar containers; and

2. Traveling bags, toiletry bags, etc.

The net effect is that Heading 4202 creates a distinction between suitcases and traveling bags, which is not present under TSUS. Under TSUS, all luggage in chief value of vegetable fibers is dutiable at 6.5%. However, under the July 1987 edition of the Harmonized System, vegetable fiber suitcases would be classifiable under Heading 4202.12.60 at 6.5%, but other vegetable fiber items other than suitcases such as tote bags, garment bags, casual luggage and duffel bags, etc., would fall under Heading 4202.92.45, which carries the duty rate of 20%.

The essential problem is that there is no breakout under Subheading 4202.92 for vegetable fiber travel, sports and similar bags, whereas under Subheading 4202.12, there is a breakout for vegetable fiber trunks, suitcases, etc. We believe that the failure to include a vegetable fiber breakout under Subheading 4202.92 was an oversight and should be corrected.

Skyway has discussed this issue with a number of personnel at U.S. Customs as well as at the U.S. Trade Representative, who indicate that they cannot account for the failure to provide for a vegetable fiber breakout under Subheading 4202.92. Further, these officials have been unable to explain the rationale in the current draft of the Harmonized System for splitting the categories of luggage into the new categories without a vegetable fiber breakout under Subheading 4202.92.

We wish to point out that, with the exception of the vegetable fiber products, there are separate breakouts for man-made fiber, cotton, and leather articles under both 1) the suitcase provisions and 2) the travel bag provisions.

Skyway imports considerable quantities of vegetable fiber luggage, and thus this oversight in the Harmonized System would cause a substantial increase of duties if this problem is not corrected.

Summary

In conclusion, we strongly urge that the U.S. Representative's current proposal be adopted, and that the proposed breakout -- 4202.92.20 -- for vegetable fiber luggage at 6.5% be incorporated into the Harmonized System prior to enactment.

Skyway Requests Expeditious
Enactment of the Harmonized System

Finally, Skyway strongly recommends that the Harmonized System be enacted as soon as possible. As with many businesses, Skyway is required to design and manufacture its products many months prior to the time that they are

imported. Further, in order to provide a price for its luggage to its U.S. customers, Skyway must be certain of the imported duty rate so that the duties can be included in the selling price. Skyway is simply not able to pass along increased duties to its U.S. customers. Four months notice of implementation/enactment of the Harmonized System will greatly expedite the ability of Skyway and other companies to price their merchandise to their customers.

Your attention to this would be greatly appreciated.

Very truly yours,

LAW OFFICES OF
GEORGE R. TUTTLE,
A Professional Corporation

By: Stephen B. Spraitzar
Stephen B. Spraitzar

International
Government Activities/3M

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3M

November 5, 1987

Robert J. Leonard, Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Bldg.
Washington, D. C. 20515

Dear Mr. Leonard:

This letter is in response to the request of the Honorable Dan Rostenkowski for written comments on proposed implementation in the Trade Bill of the conversion of the tariff schedules of the United States into the harmonized commodity description and coding system.

3M is concerned with the passage of the Harmonized System legislation. We are writing to ask for the committees support for the passage of the legislation implementing the new Harmonized Commodity Coding System (HS). There is a definite need for the U.S. to implement the HS by January 1, 1988 to enable US industry to more effectively compete in the world economy.

The HS will provide numerous benefits to US exporters and will aid in the international trade operations of US business and industry. The implementation of the HS will greatly facilitate automation and should ultimately reduce the risk of errors in duty collection and increase the accuracy and timeliness of statistical reporting. Furthermore, the HS will assist governments in trade negotiations by providing more accurate information on trade flows, greater comparability of statistics and a more uniform basis for discussion.

A number of major industrial countries as well as many developing countries will implement the HS on January 1, 1988. The US will be disadvantaged if it is not able to implement the HS by that date since it will not be able to fully influence the international strucuture and operation of HS.

Passage of this HS legislation would be beneficial to American businesses. It is an essential part of an international trade environment which will allow 3M and other US firms to compete more effectively in the global economy. Consequently we urge the adoption of the HS as quickly as possible to allow U.S. industries to have ample time to prepare for implementation on January 1, 1988.

Sincerely,

John R. Frahm, Manager
Government Activities/International

Comments of the Toy Manufacturers of America
on the Proposed
Harmonized Commodity Description
and Coding System

These comments are filed by Sharretts, Paley, Carter & Blauvelt, P.C. on behalf of the Toy Manufacturers of America (TMA), the toy industry trade organization representing 250 American companies which account for 90 percent of the $12 billion toys, games and dolls sold in the United States each year, in response to a Press Release, dated October 26, 1987, soliciting public comment on the proposed conversion of the Tariff Schedules of the United States (TSUS) into the nomenclature structure of the Harmonized Commodity Description and Coding System ("Harmonized System", or "HS").

TMA initially requests that Congress consider comments TMA filed with the Committee on February 27, 1987. In those comments, TMA endorsed the concept of the HS, but suggested certain modifications in its language prior to implementation. TMA remains of the opinion that its February 27, 1987 suggestions should be codified into law, and urges that Congress take the action requested.

Of particular importance to the TMA is that the Harmonized Commodity and Coding System segregate those toys, games and component parts imported and sold by TMA members from those imports which are subject to extensive political controversy; e.g., textiles and wearing apparel. TMA recognizes that classification controversies will exist upon enactment of the HS. However, TMA urges Congress to take all available measures to ensure that articles which are bought, sold, marketed, and used as toys and games are classified in Chapter 95, HS, and are not subjected to the high rates of duty and the imposition of quota restraints and licensing requirements, applicable to products imported in competition with other American industries (e.g., textiles and wearing apparel).

In this regard, the Customs Service recently has issued a ruling to the effect that when the HS is enacted children's textile Halloween costumes will be classified as wearing apparel, rather than as toys. This decision reverses current practice under the TSUS, and substantially increases the duty rates applicable to these products, in direct contravention to the intent that duty rates not be increased upon enactment of the HS, TMA suggests that an additional Legal Note be added to the HS, or in lieu thereof, that Congress publish explanatory material to confirm that toy costumes should be classified in Chapter 95, HS, and not as wearing apparel.

TMA also is concerned that certain noncontroversial miscellaneous tariff bills of interest to members, which have been incorporated as part of H.R.3, have been drafted solely in the language of the TSUS, and have not as yet been converted into HS nomenclature. For example, Section 835 of H.R.3 provides for unconditional duty free entry for the following articles for entries made on or before December 31, 1990.

> Stuffed or filled toy figures of animate objects (except dolls) not having a spring mechanism and not exceeding 25 inches in either length, width, or height (provided for in items 737.30, 737.40, Part 5E, Schedule 7).

Under the HS, the corresponding "stuffed toy" provision (paragraph 9503.41.10) encompasses "stuffed toys representing animals or non-human creatures (for example, robots or monsters)," which includes the vast majority of stuffed toy figures previously classified in item 737.30, TSUS. To avoid an administrative nightmare upon

implementation of the HS and Section 835, TMA suggests that Congress redraft the language of Section 835 to encompass all stuffed toys classified in Paragraph 9503.41.10, HS, as well as filled toys which arguably may be classified in other HS provisions. By proceeding in this manner, Congress will incorporate the intent of this duty free provision while at the same time minimize the difficulties involved in converting a new TSUS provision (which may never be utilized in practice) into the HS.

Finally, TMA is concerned that as of the date these comments are being filed, the Administration has not announced which beneficiary developing countries (DOC) will be excluded from eligibility for duty free entry pursuant to the Generalized System of Preferences (GSP) for particular HS paragraphs. Until this announcement is made, TMA members are unable to ascertain the costs of their imported products, and therefore to fix reasonable selling prices. TMA urges that Congress require that the Administration immediately announce its intended GSP-HS corrolation to alleviate the substantial uncertainty which currently exists.

TMA thanks the Committee for the opportunity to submit these additional written comments on the proposed HS. TMA believes that Congress should enact this new classification system, and hopes that Congress will work along with the Administration and industry representatives (such as TMA) to create a new Commodity Description and Coding System that will withstand the test of time.

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November 9, 1987

BY HAND

The Honorable Dan Rostenkowski
Chairman,
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Bldg.
Washington, D. C. 20515

Re: Proposed Implementation of the Conversion of of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized Commodity Description and Coding System (Harmonized System) as Part of H.R. 3, the Trade and International Economic Policy Reform Act of 1987.

Dear Mr. Chairman:

This statement is submitted by the undersigned counsel on behalf of our client, Voyager International, Inc., a U. S. Corporation engaged in the sale and importation of down/feather-filled articles in response to the request for written comments on the proposed implementation in the Trade Bill of the Conversion of the Tariff Schedules of the United States (TSUS) into the Harmonized Commodity Description and Coding System contained in the Committee's Press Release No. 19 of October 26, 1987.

We understand that the proposed conversion of the Tariff Schedules of the United States to the language of the Harmonized Code [**Proposed United States Tariff Schedule in the Harmonized System Nomenclature (Preliminary) June 1987**] is intended to be rate neutral. We believe that the most recent revision may well result in the improper classification of many down/feather-filled articles presently classifiable under Tariff Items 748.45, 748.50 and 748.55, TSUS, and, as a result, erroneously increased the duty applicable to such merchandise.

BACKGROUND

Under current tariff treatment, imported down/feather-filled articles in chief value of feather/down are eligible for classification under the above-referenced tariff provisions and subject to duty at the rate of 4.7 percent ad valorem.

The June 1987 (Preliminary) Revision provides for the classification of down/feather-filled articles by specific minimum weight requirements as follows:

> Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 50 percent or more by weight; containing 10 percent or more by weight of down but not containing any other plumage.

At the outset, it is our belief that the language "but not containing any other plumage" contained in the proposed subheadings (e.g., 6201.93.10 and 6202.93.10) should be deleted from the final version of the Harmonized Code provisions to clarify the fact that, so long as an imported article contains the minimum 10 percent or more by weight of "down," it is classifiable therein notwithstanding the presence or absence of other waterfowl plumage. Pertinent in this regard is the fact that under the Guidelines for the Feather and Down Products Industry set forth in Part 253 of Title XVI of the Code of Federal Regulations [16 C.F.R. Section 253, et seq], articles labelled as pure down may contain up to 20 percent by weight of waterfowl plumage.

Additionally, it is noted that the initial criteria contained in the proposed subheadings - the 15 percent/50 percent criteria - would, if adopted, unintentionally exclude from classification therein articles having a blended fill of 60%/40% by weight of down-to-feather due to the fact that under present FTC Guidelines such blends need only contain 48% by weight of down, of which no more than 6% may consist of down fiber. It is therefore suggested that the first criteria contained in the proposed subheadings be modified to read as follows:

> Containing 15 percent or more by weight of down and waterfowl plumage and of which down comprises 48 percent or more by weight * * *

It is respectfully submitted that the suggested revision of the initial criteria contained in the proposed subheadings would permit classification thereunder of articles having a blended fill of 60%/40% down-to-feathers as computed under Section 253.6 of the FTC Regulations relating to tolerances in filling material for feather and down products as well as ASTM Standard D 4522-86 which provides a tolerance by weight for down and down and waterfowl blends. For your reference, we have enclosed a copy of the cited Industry Guidelines contained in the Federal Trade Commission Regulations (Exhibit 1).

After having reviewed the foregoing, we would appreciate the opportunity to provide any additional information which you deem necessary.

The Committee's attention to this matter is greatly appreciated.

Respectfully submitted,

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By: _____
John J. Galvin

EXHIBIT 1

SUBCHAPTER A—ORGANIZATION, PROCEDURES AND RULES OF PRACTICE

PART 0—ORGANIZATION

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0.3 Hours.
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0.19 The Regional Offices.

AUTHORITY: Sec. 6(g), 38 Stat. 721 (15 U.S.C. 46); 80 Stat. 383, as amended (5 U.S.C. 552).

SOURCE: 41 FR 54483, Dec. 14, 1976, unless otherwise noted.

§ 0.1 The Commission.

The Federal Trade Commission is an independent administrative agency which was organized in 1915 pursuant to the Federal Trade Commission Act of 1914 (38 Stat. 717, as amended; 15 U.S.C. 41-58). It is responsible for the administration of a variety of statutes which, in general, are designed to promote competition and to protect the public from unfair and deceptive acts and practices in the advertising and marketing of goods and services. It is composed of five members appointed by the President and confirmed by the Senate for terms of seven years.

§ 0.2 Official address.

The principal office of the Commission is at Washington, D.C. All communications to the Commission should be addressed to the Federal Trade Commission, Pennsylvania Avenue and Sixth Street, NW., Washington, DC 20580, unless otherwise specifically directed.

§ 0.3 Hours.

Principal and field offices are open on each business day from 8:30 a.m. to 5 p.m.

§ 0.4 Laws administered.

The Commission exercises enforcement and administrative authority under the Federal Trade Commission Act (38 Stat. 717, as amended (15 U.S.C. 41-58)), the Clayton Act (38 Stat 730, as amended (15 U.S.C. 12-27)), the Export Trade Act (40 Stat. 516, as amended (15 U.S.C. 61-65)), the Packers and Stockyards Act (42 Stat. 159, as amended (7 U.S.C. 181-229)), the Wool Products Labeling Act (54 Stat. 1128, as amended (15 U.S.C. 68-68j)), the Trade Mark Act (60 Stat. 427, as amended (15 U.S.C. 1051-72)), The Fur Products Labeling Act (65 Stat. 175, as amended (15 U.S.C. 69-69j)), the Textile Fiber Products Identification Act (72 Stat. 1717, as amended (15 U.S.C. 70-70k)), the Federal Cigarette Labeling and Advertising Act (79 Stat. 282, as amended (15 U.S.C. 1331-39)), the Fair Packaging and Labeling Act (80 Stat. 1296, as amended (15 U.S.C. 1451-61)), the Truth in Lending Act (82 Stat. 146, as amended (15 U.S.C. 1601 et seq.)), the Fair Credit Reporting Act (84 Stat. 1128 (15 U.S.C. 1681 et seq.)), the Fair Credit Billing Act (88 Stat. 1511; (15 U.S.C. 1666)), the Equal Credit Opportunity Act (88 Stat. 1521, as amended (15 U.S.C. 1691)), Hobby Protection Act (87 Stat. 686 (15 U.S.C. 2101)), the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act (88 Stat. 2183 (15 U.S.C. 2301-12, 45-58)), the Energy Policy and Conservation Act (89 Stat. 871 (42 U.S.C. 6291)), the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (90 Stat. 1383 (15 U.S.C. 1311)), and other Federal statutes.

§ 0.5 Laws authorizing monetary claims.

The Commission is authorized to entertain monetary claims against it under two statutes. The Federal Tort Claims Act (28 U.S.C. 2671-2680) provides that the United States shall be liable for injury or loss of property or personal injury or death caused by the negligent or wrongful acts or omissions of its employees acting within the scope of their employment or office. The Military Personnel and Civilian Employees Claims Act of 1964 (31 U.S.C. 3701, 3721) authorizes the Commission to compensate employees' claims for damage to or loss of personal property incident to their service. The Commission's claims officer for both statutes is Teresa A. Hennessy, telephone (202) 523-3533.

(Sec. 6(g), 38 Stat. 721 (15 U.S.C. 46); 80 Stat. 383, as amended (5 U.S.C. 552))

[50 FR 16690, Apr. 29, 1985]

§ 0.6 [Reserved]

§ 0.7 Delegation of functions.

The Commission, under the authority provided by Reorganization Plan No. 4 of 1961, may delegate, by published order or rule, certain of its functions to a division of the Commission, an individual Commissioner, an administrative law judge, or an employee or employee board.

§ 0.8 The Chairman.

The Chairman of the Commission is designated by the President, and, subject to the general policies of the Commission, is the executive and administrative head of the agency. He presides at meetings of and hearings before the Commission and participates with other Commissioners in all Commission decisions. Attached to the Office of the Chairman, and reporting directly to him, and through him to the Commission, are the following staff units: (a) The Office of Public Affairs, which furnishes information concerning Commission activities to news media and the public; and (b) the Office of Congressional Relations, which coordinates all liaison activities with Congress.

[50 FR 53303, Dec. 31, 1985]

§ 0.9 Organization structure.

The Federal Trade Commission comprises the following principal units:

Office of the Executive Director
Office of the General Counsel
Office of the Secretary
Office of Administrative Law Judges
Office of Presiding Officers
Bureau of Competition
Bureau of Consumer Protection
Bureau of Economics
The Regional Offices

[45 FR 36340, May 29, 1980; 45 FR 39344, June 10, 1980; 50 FR 53303, Dec. 31, 1985]

§ 0.10 Office of the Executive Director.

(a) The Executive Director, under the direction of the Chairman, is the chief operating official. He exercises executive and administrative supervision over all the offices, bureaus, and staff of the Commission and resolves problems concerning priorities in case handling. Immediately under his direction are the Deputy Executive Directors for Management and Planning and Information.

(b) The Deputy Executive Director for Management functions as staff advisor to the Executive Director in all aspects of administrative management; provides administrative policy guidance to agency management and provides general supervision to the programs of procurement and contracts, personnel, budget and finance, and administrative service activities; and initiates and develops long-range plans to assure that the Commission acquires and effectively utilizes the manpower, financial resources, physical facilities and management tools necessary to accomplish its mission.

(c) The Deputy Executive Director for Planning and Information provides general supervision to the programs of data processing and information systems, information analysis, and the library; responds to initial requests for Commission records under the Freedom of Information and Privacy Acts; maintains a current index of opinions, orders, statements of policy and interpretations, staff manuals and instructions that affect any member of the public, and other public records of the Commission; makes available for inspection and copying all public records of the Commission; coordinates the Commission's information processing systems; and is responsible for the publication of all Commission actions which must appear in the FEDERAL REGISTER and for the publication of

Federal Trade Commission Decisions and *Court Decisions—Federal Trade Commission.*

[48 FR 4280, Jan. 31, 1983, as amended at 50 FR 53303, Dec. 31, 1985]

§ 0.11 Office of the General Counsel.

The General Counsel is the Commission's chief law officer and adviser, who renders necessary legal services to the Commission, represents the Commission in the Federal and State Courts, advises the Commission with respect to questions of law and policy, including advice with respect to legislative matters, cooperates with and assists State and local officials in the efforts to eliminate local and national trade restraints.

[41 FR 54483, Dec. 14, 1976, as amended at 50 FR 53303, Dec. 31, 1985]

§ 0.12 Office of the Secretary.

The Secretary is responsible for the minutes of Commission meetings and is the legal custodian of the Commission's seal, property, papers, and records, including legal and public records. The Secretary, or in his absence an Acting Secretary designated by the Commission, signs Commission orders and official correspondence.

[48 FR 4280, Jan. 31, 1983]

§ 0.13 [Reserved]

§ 0.14 Office of Administrative Law Judges.

Administrative law judges are officials to whom the Commission, in accordance with law, delegates the initial performance of its adjudicative fact-finding functions to be exercised in conformity with Commission decisions and policy directives and with its rules of practice. Administrative law judges are appointed under the authority and subject to the prior approval of the Office of Personnel Management.

[41 FR 54483, Dec. 14, 1976, as amended at 46 FR 26287, May 12, 1981]

§ 0.15 Office of Presiding Officers.

Presiding Officers are employees assigned to conduct rulemaking proceedings under section 18(a)(1)(B) of the Federal Trade Commission Act as amended and other rulemaking proceedings as directed.

[45 FR 36340, May 29, 1980]

§ 0.16 Bureau of Competition.

The bureau is responsible for enforcing Federal antitrust and trade regulation laws under section 5 of the Federal Trade Commission Act, the Clayton Act, and a number of other special statutes which the Commission is charged with enforcing. The bureau work aims to preserve the free market system and assure the unfettered operation of the forces of supply and demand. Its activities seek to ensure price competition, quality products and services and efficient operation of the national economy. The bureau carries out its responsibilities by investigating alleged law violations, and recommending to the Commission such further action as may be appropriate. Such action may include injunctive relief in Federal District Court, complaint and litigation before the agency's administrative law judges, formal nonadjudicative settlement of complaints, trade regulation rules, or reports. The bureau also conducts compliance investigations and initiates proceedings for civil penalties to assure compliance with final Commission orders dealing with competition and trade restraint matters.

[41 FR 54483, Dec. 14, 1976. Redesignated at 45 FR 36341, May 29, 1980; 50 FR 53303, Dec. 31, 1985]

§ 0.17 Bureau of Consumer Protection.

The Bureau investigates unfair or deceptive acts or practices under section 5 of the Federal Trade Commission Act as well as potential violations of numerous special statutes which the Commission is charged with enforcing. It prosecutes before the agency's administrative law judges alleged violations of law after issuance of a complaint by the Commission or obtains through negotiation consented-to orders, which must be accepted and issued by the Commission. The bureau participates in trade regulation rulemaking proceedings under section 18(a)(1)(B) of the Federal Trade Commission Act and other rulemaking proceedings under other statutory authority. It investigates compliance with final orders and trade regulation rules and seeks civil penalties or consumer redress for their violation. In addition, the bureau seeks to educate both consumers and the business community about the laws it enforces.

[46 FR 26287, May 12, 1981]

§ 0.18 Bureau of Economics.

The bureau aids and advises the Commission concerning the economic aspects of all of its functions, and is responsible for the preparation of various economic reports and surveys. The bureau provides economic and statistical assistance to the enforcement bureaus in the investigation and trial of cases.

[41 FR 54483, Dec. 14, 1976. Redesignated at 45 FR 36341, May 29, 1980; 50 FR 53303, Dec. 31, 1985]

§ 0.19 The Regional Offices.

(a) These offices are investigatory arms of the Commission, and, with respect to matters of a regional nature, have responsibility for investigational, trial, compliance, and consumer educational activities as delegated by the Commission. Each regional office has general responsibility for its own activities and for the smaller offices, designated as field stations, located in its area of responsibility. They are under the general supervision of the Office of the Executive Director, and clear their activities through the appropriate operating bureaus.

(b) The addresses of the respective regional offices, and of the field stations located in the area of each are as follows:

(1) *Atlanta Regional Office.* Federal Trade Commission, Room 1000, 1718 Peachtree Street, NW., Atlanta, GA 30309.

(2) *Boston Regional Office.* Federal Trade Commission, Room 1301, 150 Causeway Street, Boston, MA 02114.

(3) *Chicago Regional Office.* Federal Trade Commission, Suite 1437, 55 East Monroe Street, Chicago, IL 60603.

(4) *Cleveland Regional Office.* Federal Trade Commission, Suite 500, Mall Building, 118 Saint Clair Avenue N.E., Cleveland, OH 44114.

(5) *Dallas Regional Office.* Federal Trade Commission, 8303 Elmbrook Drive, Dallas, TX 75247.

(6) *Denver Regional Office.* Federal Trade Commission, Suite 2900, 1405 Curtis Street, Denver, CO 80202.

(7) *Los Angeles Regional Office.* Federal Trade Commission, Room 13209, Federal Building, 11000 Wilshire Boulevard, Los Angeles, CA 90024.

(8) *New York Regional Office.* Federal Trade Commission, 2243-EB, Federal Building, 26 Federal Plaza, New York, NY 10278.

(9) *San Francisco Regional Office.* Federal Trade Commission, 450 Golden Gate Avenue, Box 36005, San Francisco, CA 94102. Field Station: Federal Trade Commission, Room 6324, 300 Ala Moana, Honolulu, HI 96850.

(10) *Seattle Regional Office.* Federal Trade Commission, 28th Floor, Federal Building, 915 Second Avenue, Seattle, WA 98174.

(c) Each of the regional offices is supervised by a Regional Director, who is available for conferences with attorneys, consumers, and other members of the public on matters relating to the Commission's activities.

[41 FR 54483, Dec. 14, 1976, as amended at 42 FR 27218, May 27, 1977; 43 FR 754, Jan. 4, 1978; 43 FR 6879, Feb. 15, 1978. Redesignated at 45 FR 36341, May 29, 1980; 50 FR 53303, Dec. 31, 1985]

PART 1—GENERAL PROCEDURES

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AUTHORITY: Sec. 6, 38 Stat. 721 (15 U.S.C. 46), unless otherwise noted.

SOURCE: 32 FR 8444, June 13, 1967, unless otherwise noted.

NOTE: On May 14, 1973, the responsibilities of the Federal Trade Commission for enforcement of the Flammable Fabrics Act, as amended, were transferred to the Consumer Product Safety Commission. The CPSC Flammable Fabrics Act regulations are in 16 CFR Chapter II, Subchapter D.

Subpart A—Industry Guidance

ADVISORY OPINIONS

§ 1.1 Policy.

(a) Any person, partnership, or corporation may request advice from the Commission with respect to a course of action which the requesting party proposes to pursue. The Commission will consider such requests for advice and inform the requesting party of the Commission's views, where practicable, under the following circumstances.

(1) The matter involves a substantial or novel question of fact or law and there is no clear Commission or court precedent;

(2) A proposed corporate merger or acquisition is involved; or

(3) The subject matter of the request and consequent publication of Commission advice is of significant public interest.

(b) The Commission has authorized its staff to consider all requests for advice and to render advice, where practicable, in those circumstances in which a Commission opinion would not be warranted. Hypothetical questions will not be answered, and a request for advice will ordinarily be considered inappropriate where: (1) The same or substantially the same course of action is under investigation or is or has been the subject of a current proceeding involving the Commission or another governmental agency, or (2) an informed opinion cannot be made or could be made only after extensive investigation, clinical study, testing, or collateral inquiry.

[44 FR 21624, Apr. 11, 1979; 44 FR 23815, Apr. 30, 1979]

§ 1.2 Procedure.

(a) Application. The request for advice or interpretation should be submitted in writing (one original and two copies) to the Secretary of the Commission and should: (1) State clearly the question(s) that the applicant wishes resolved; (2) cite the provision of law under which the question arises; and (3) state all facts which the applicant believes to be material. In addition, the identity of the companies and other persons involved should be disclosed. Letters relating to unnamed companies or persons may not be answered. Submittal of additional facts may be requested prior to the rendering of any advice.

(b) Compliance matters. If the request is for advice as to whether the proposed course of action may violate an outstanding order to cease and desist issued by the Commission, such request will be considered as provided for in § 2.41 of this chapter.

[44 FR 21624, Apr. 11, 1979, as amended at 44 FR 40638, July 12, 1979]

§ 1.3 Advice.

(a) On the basis of the materials submitted, as well as any other information available, and if practicable, the Commission or its staff will inform the requesting party of its views.

(b) Any advice given by the Commission is without prejudice to the right of the Commission to reconsider the questions involved and, where the public interest requires, to rescind or revoke the action. Notice of such rescission or revocation will be given to the requesting party so that he may discontinue the course of action taken pursuant to the Commission's advice. The Commission will not proceed against the requesting party with respect to any action taken in good faith reliance upon the Commission's advice under this section, where all the relevant facts were fully, completely, and accurately presented to the Commission and where such action was promptly discontinued upon notification of rescission or revocation of the Commission's approval.

(c) Advice rendered by the staff is without prejudice to the right of the Commission later to rescind the advice and, where appropriate, to commence an enforcement proceeding.

[44 FR 21624, Apr. 11, 1979]

§ 1.4 Public disclosure.

Written advice rendered pursuant to this Section and requests therefor, including names and details, will be placed in the Commission's public record immediately after the requesting party has received the advice, subject to any limitations on public disclosure arising from statutory restrictions, the Commission's rules, and the public interest. A request for confidential treatment of information submitted in connection with the questions should be made separately.

[44 FR 21624, Apr. 11, 1979]

INDUSTRY GUIDES

§ 1.5 Purpose.

Industry guides are administrative interpretations of laws administered by the Commission for the guidance of the public in conducting its affairs in conformity with legal requirements. They provide the basis for voluntary and simultaneous abandonment of unlawful practices by members of industry. Failure to comply with the guides may result in corrective action by the Commission under applicable statute-

ry provisions. Guides may relate to a practice common to many industries or to specific practices of a particular industry.

§ 1.6 How promulgated.

Industry guides[1] are promulgated by the Commission on its own initiative or pursuant to petition filed with the Secretary or upon informal application therefor, by any interested person or group, when it appears to the Commission that guidance as to the legal requirements applicable to particular practices would be beneficial in the public interest and would serve to bring about more widespread and equitable observance of laws administered by the Commission. In connection with the promulgation of industry guides, the Commission at any time may conduct such investigations, make such studies, and hold such conferences or hearings as it may deem appropriate. All or any part of any such investigation, study, conference, or hearing may be conducted under the provisions of Subpart A of Part 2 of this chapter.

Subpart B—Rules and Rulemaking Under Section 18(a)(1)(B) of the FTC Act

AUTHORITY: Sec. 6, 38 Stat. 721 (15 U.S.C. 46); sec. 18(a)(1)(B), 88 Stat. 2193 (15 U.S.C. 57a); sec. 553, 80 Stat. 378 (5 U.S.C. 552).

SOURCE: Sections 1.7 to 1.11 appear at 46 FR 26286, May 12, 1981, unless otherwise noted.

Sections 1.12 to 1.20 appear at 40 FR 31966, Aug. 12, 1975, unless otherwise noted.

§ 1.7 Scope of rules in this subpart.

The rules in this subpart apply to and govern proceedings for the promulgation of rules as provided in section 18(a)(1)(B) of the Federal Trade Commission Act. Such rules shall be known as trade regulation rules. All other rulemaking proceedings shall be governed by the rules in Subpart C, except as otherwise required by law or as otherwise specified in this chapter.

[1] In the past, certain of these have been promulgated and referred to as trade practice rules.

[46 FR 26288, May. 12, 1981, as amended at 50 FR 53303, Dec. 31, 1985]

§ 1.8 Nature, authority and use of trade regulation rules.

(a) For the purpose of carrying out the provisions of the Federal Trade Commission Act, the Commission is empowered to promulgate trade regulation rules which define with specificity acts or practices which are unfair or deceptive acts or practices in or affecting commerce. Such rules may include requirements prescribed for the purpose of preventing such acts or practices. A violation of a rule shall constitute an unfair or deceptive act or practice in violation of section 5(a)(1) of that Act, unless the Commission otherwise expressly provides in its rule. However, the respondent in an adjudicative proceeding may show that his conduct does not violate the rule or assert any other defense to which he is legally entitled.

(b) The Commission at any time may conduct such investigations, make such studies and hold such conferences as it may deem necessary. All or any part of any such investigation may be conducted under the provisions of Subpart A of Part 2 of this chapter.

§ 1.9 Petitions to commence trade regulation rule proceedings.

Trade regulation rule proceedings may be commenced by the Commission upon its own initiative or pursuant to written petition filed with the Secretary by any interested person stating reasonable grounds therefor. If the Commission determines to commence a trade regulation rule proceeding pursuant to the petition, the petitioner shall be mailed a copy of the public notices issued under §§ 1.10, 1.11 and 1.12. Any person whose petition is not deemed by the Commission sufficient to warrant commencement of a rulemaking proceeding shall be notified of that determination and may be given an opportunity to submit additional data.

[46 FR 26288, May. 12, 1981, as amended at 50 FR 53303, Dec. 31, 1985]

§ 1.10 Advance notice of proposed rulemaking.

(a) Prior to the commencement of any trade regulation rule proceeding, the Commission shall publish in the FEDERAL REGISTER an advance notice of such proposed proceeding.

(b) The advance notice shall: (1) Contain a brief description of the area of inquiry under consideration, the objectives which the Commission seeks to achieve, and possible regulatory alternatives under consideration by the Commission; and (2) invite the response of interested persons with respect to such proposed rulemaking, including any suggestions or alternative methods for achieving such objectives.

(c) The advance notice shall be submitted to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives.

(d) The Commission may, in addition to publication of the advance notice, use such additional mechanisms as it considers useful to obtain suggestions regarding the content of the area of inquiry before publication of an initial notice of proposed rulemaking pursuant to § 1.11.

[46 FR 26288, May. 12, 1981, as amended at 50 FR 53303, Dec. 31, 1985]

§ 1.11 Commencement of a rulemaking proceeding.

(a) *Initial notice.* A trade regulation rule proceeding shall commence with an initial notice of proposed rulemaking. Such notice shall be published in the FEDERAL REGISTER not sooner than 30 days after it has been submitted to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives. The initial notice shall include:

(1) The text of the proposed rule including any alternatives which the Commission proposes to promulgate; (2) reference to the legal authority under which the rule is proposed; (3) a statement describing with particularity the reason for the proposed rule; (4) an invitation to all interested persons to propose issues which meet the criteria of § 1.13(d)(1)(i) for consideration in accordance with § 1.13(d)(5) and (d)(6); (5) an invitation to all interested persons to comment on the proposed rule; and (6) a statement of the manner in which the public may obtain copies of the preliminary regulatory analysis.

(b) *Preliminary regulatory analysis.* Except as otherwise provided by statute, the Commission shall, when commencing a rulemaking proceeding, issue a preliminary regulatory analysis which shall contain:

(1) A concise statement of the need for, and the objectives of, the proposed rule;

(2) A description of any reasonable alternatives to the proposed rule which may accomplish the stated objective of the rule in a manner consistent with applicable law;

(3) For the proposed rule, and for each of the alternatives described in the analysis, a preliminary analysis of the projected benefits and any adverse economic effects and any other effects, and of the effectiveness of the proposed rule and each alternative in meeting the stated objectives of the proposed rule; and

(4) The information required by the Regulatory Flexibility Act at 5 U.S.C. 603.

[46 FR 26288, May. 12, 1981, as amended at 50 FR 53303, Dec. 31, 1985]

§ 1.12 Final notice.

A final notice of proposed rulemaking shall be published in the FEDERAL REGISTER and, to the extent practicable, otherwise made available to interested persons. The final notice shall include: (a) Designated issues, unless there are none, which are to be considered in accordance with § 1.13(d)(5) and (d)(6); (b) the time and place of an informal hearing; (c) instructions to interested persons seeking to make oral presentations; (d) a requirement that interested persons who desire to avail themselves of the procedures of § 1.13(d)(5) and (d)(6) with respect to any issue designated in paragraph (a) of this section must identify their interests with respect to those issues in such manner as may be established by the presiding officer; and (e) an incor-

W. G. CARROLL & CO., INC.

CUSTOMS BROKER - FREIGHT FORWARDER
One Clay Place/P.O. Box 20729/Atlanta, GA 30320
(404) 761-2929/Telex 54-2323/Fax (404) 761-3711

BUSINESS IS UNDERTAKEN SUBJECT TO EXPRESS FEDERAL REGULATIONS AND UNDER THE TERMS AND CONDITIONS OF THE NATIONAL CUSTOMS BROKERS & FORWARDERS ASSOCIATION OF AMERICA, INC. A COPY OF THESE TERMS IS AVAILABLE UPON REQUEST

November 5, 1987

Robert J. Leonard, Chief Counsel
House Committee on Ways and Means
1102 Longworth Building
Washington, D.C. 20515

Dear Mr. Leonard:

W. G. Carroll & Co., Inc. is a Customs Brokerage firm, and, as such, international trade is our business. We are writing to you today to express our concern about U.S. implementation of the Harmonized Description and Coding System, referred to as the Harmonized System.

To date, the European Community and many separate countries, including Japan and Canada, have ratified the Harmonized System. Only 17 countries' ratification is required to implement the Harmonized System. With the number of countries ratifying the Harmonized System well over the 17 country minimum, it will take effect January 1, 1988 for participating nations, regardless of U.S. action.

Clearly, the "fast track" provisions in the Trade Bill do not permit sufficient time to allow the U.S. to implement the Harmonized System along with the rest of the world on January 1. Congress must therefore act quickly to implement the Harmonized System through the Trade Bill or, if passage is not imminent, to enact separate legislation providing for U.S. implementation. As the Harmonized System has now been ratified as an international document, the 90 day waiting period between the date the Harmonized System is signed into law and the date it takes effect is no longer required. The Harmonized System can take effect as soon as it is signed into law.

Our industry, in conjunction with the U.S. Customs Service, has spent many thousands of dollars preparing for the implementation of the Harmonized System. We estimate that our firm has expended approximately $25,000 in retraining our personnel to use the proposed Code. However, owing to the size of the task confronting us, still more training will be required after legislation is passed. We must have sufficient time after enactment to re-program our computers and refine our internal procedures to accommodate the new system. For these reasons, it is our position that it is imperative that Congress take action now to enact implementing legislation. To delay this action further would leave insufficient time for the international trade

community to properly prepare for an orderly transition to the new Harmonized System.

We strongly urge Chairman Rostenkowski to work with the House and Senate leadership and with his colleagues on the House Ways and Means Committee and the Senate Finance Committee to ensure that this non-controversial but much needed legislation is passed as quickly as possible.

The countries who have deposited their signatures of ratification on the Harmonized Code will attend the first general meeting of the participants April 1, 1988 in Brussels. It is important that the United States enact the Harmonized Code now so that we may join our trading partners in the discussions.

W. S. Ansley, Jr.
President

Warner-Lambert Company
1667 K Street, N.W., Suite 1270
Washington, DC 20006
202 862-3840

W. Bradford Gary
Vice President
Government Relations

WARNER LAMBERT

November 12, 1987

The Honorable Dan Rostenkowski
Chairman
Committee on Ways and Means
U.S. House of Representatives
2111 Rayburn House Office Building
Washington, DC 20515-1308

RE: Harmonized System Contained in HR. 3, S.1420

Dear Mr. Chairman:

Pursuant to the Committee's October 26, 1987 request for comment concerning the matter of separate action on the Harmonized System, Warner Lambert is submitting the following comments.

The Harmonized System (HS) is supported by the Administration and by industry generally. Warner Lambert also supports adoption of the HS as a useful means of accomplishing its intended goals, particularly with respect to measuring balances of trade in particular commodities.

In order to be implemented on schedule by the United States on January 1, 1988, early passage of enabling legislation is needed. We, therefore, support the proposal that Congress separate the HS provision from the Omnibus Trade Bill. Our understanding is that the Administration also proposes attaching this item to the Reconciliation Bill.

Thank you.

W. Bradford Gary
Vice President

Xerox Corporation
800 Phillips Road, Building 0205-99P
Webster, NY 14580

October 26, 1987

XEROX

The Honorable Dan Rostenkowski
Chairman
Committee on Ways and Means
1102 LHOB
Washington, DC 20515

Dear Congressman Rostenkowski:

The last quarter of 1987 is upon us and there is reason to be concerned that a Trade Bill may not be presented to the President before the end of this session. There are many who have waited with anticipation for the Congress to pass bills in its respective houses and to reconcile them in conference. The complexity of the bill, the broad range of trade related subjects which it addresses, and in some instances the differences among members as regards individual sections all make for a difficult resolution.

Informed Washington sources are predicting that the Congressional Conference addressing the differences between the House and Senate versions of H.R. 3 may not be able to resolve those differences, some of which are controversial, by year end, if at all. Xerox Corporation has an interest in many sections of H.R 3 and has joined with business groups such as the Emergency Committee for American Trade (ECAT) and the Business Round Table in making its views known to congressional and administration offices.

It is, however, with reference to two specific elements of H.R. 3 that I write to you. These portions of the bill, though generally seen as being non-controversial, are also being held up and their benefits denied to those they would assist.

Included is legislation enabling the implementation of the Harmonized Description and Commodity Coding System on January 1, 1988. We believe that the HS should be implemented on schedule because:

> The Harmonized System (HS) will bring order to the international trading system depended upon by the major industrialized countries. It will insure that goods are classified the same by all of those countries removing disadvantages which today can be applied by other countries against U.S. exports because of a lack of standardization. Without such standards the U.S. is unable to bring the force of common logic to arguments in defense of its exports when they are unfairly classified by trading partners.
>
> The HS standards will also contribute to the proper classification of importations and ensure that correct rates of duty are applied.

XEROX

In anticipation of the HS implementation U.S. businesses (and businesses of other nations) have spent large amounts of money and time to prepare for the conversion from the Tariff Schedule of the United States (TSUS) to the HS. Scheduling and synchronization requirements make it necessary for those making the conversation to have a definite date of implementation well in advance of the date (30 days is believed to be a minimum).

Trade statistics will be more meaningful because nations will be using a common denominator in the description of goods moving across borders.

In addition to the inconvenience of a less than universal implementation date there will be no small amount of embarrassment should the United States fail to join in at the time commonly anticipated by all HS participants.

Also included in HR 3 are a series of miscellaneous non-controversial Tariff Bills dealing with duty suspensions; some are extensions of existing suspensions; others are new legislation which has been before the Congress for two years or more. Xerox' Webster, NY manufacturing facility will benefit from one such suspension. We have been awaiting its passage since the beginning of 1986. During that time the competitive benefit *vis-a-vis* Japanese competitors intended by the legislation has not been available to our products or our employees. We believe that it should not be delayed any longer. To do so serves no U.S. purpose; it does, instead, continue the disadvantage it was intended to address.

Should the informed opinion which believes that the Trade Bill will not move promptly to conference resolution be found to be correct we are asking you and other important conferees to work for the extraction of these non-controversial portions from HR 3; for their incorporation into other legislation; for prompt consideration and passage of that legislation by the Congress; and for favorable consideration by the President. We believe that to be effective such action needs to be completed before Thanksgiving. With full appreciation for the difficulties facing the Congress your efforts in this regard will be very much appreciated.

Very truly yours,

Xerox Corporation

Stephen L. Tierney

Stephen L. Tierney
Vice President, Materials Management